





(19,992, 19,993, 19,994.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 490.

BENJAMIN F. NELSON, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

No. 491.

ANSELM C. BOSSARD, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

No. 492.

CLARENCE I. McNAIR, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.

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1 UNITED STATES OF AMERICA:

Pleas before the honorable the judges of the circuit court of the United States of America for the third division of the district of Minnesota, of the June term of said court, held in the city of St. Paul, in said district, in the year of our Lord A. D. 1905.

UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HEN-
nepin Paper Company, Wolf River Paper and Fiber Company,
Atlas Paper Company, Kimberly and Clark Company, River-
side Fibre and Paper Company, Wausau Paper Mills Company,
Centralia Pulp and Water-power Company, Combined Locks
Paper Company, Dells Paper and Pulp Company, Grand Rapids
Pulp and Paper Company, Menasha Paper Company, The
C. W. Howard Company, The Nekoosa Paper Company, The
Falls Manufacturing Company, Flambeau Paper Company,
The John Edwards Manufacturing Company, The Wisconsin
River Paper and Pulp Company, Tomahawk Pulp and Paper
Company, Northwest Paper Company, Consolidated Water
Power and Paper Company, The Petoskey Fibre Paper Com-
pany, Rhinelander Paper Company, Defendants.

DISTRICT OF MINNESOTA, ss:

Be it remembered that on the 12th day of October A. D. 1905 the following application to have witnesses, Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair, adjudged in contempt, was filed of record in said cause, in words and figures following, viz:

- 2 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HEN-
nepin Paper Company, Wolf River Paper and Fiber Company,
Atlas Paper Company, Kimberly and Clark Company, River-
side Fibre and Paper Company, Wausau Paper Mills Company,
Centralia Pulp and Water-power Company, Combined Locks
Paper Company, Dells Paper and Pulp Company, Grand
Rapids Pulp and Paper Company, Menasha Paper Company,
The C. W. Howard Company, The Nekoosa Paper Company,
The Falls Manufacturing Company, Flambeau Paper Company,
The John Edwards Manufacturing Company, The Wisconsin
River Paper and Pulp Company, Tomahawk Pulp and Paper
Company, Northwest Paper Company, Consolidated Water
Power and Paper Company, The Petoskey Fibre Paper Com-
pany, Rhineland Paper Company, Defendants.

- 3 In the matter of the proceedings to compel the witnesses Ben-
jamin F. Nelson, A. C. Bossward and Clarence I. McNair
to answer questions and produce books and documents.

To the honorable the judges of the United States circuit court for
the district of Minnesota, third division :

Your petitioner, The United States of America, petitioner in the
above entitled cause, respectfully says :

First. That the above entitled cause is a proceeding by way of a
petition, brought in the United States circuit court for the district
of Minnesota, third division, by the United States of America against
the above named defendants, under and pursuant to the provisions
of the act of Congress of July 2, 1890, entitled An act to protect
trade and commerce against unlawful restraints and monopolies.

Second. The said cause being at issue upon the petition, the
answers of the several defendants and the replications filed therein
(reference to said papers on file being hereby made for greater cer-
tainty) a special examiner was, upon the application of the petitioner,
duly appointed by this court with full power and authority, accord-
ing to the rules and practice in such case made and provided, to
hold hearings and to receive testimony on behalf of either party, at
such times and places within and without the district of Minnesota,
as he might designate and appoint.

On the 17th day of July, 1905, this court, upon the petition of the
United States of America (a copy of which is hereto attached,
marked "Exhibit A" and made a part hereof) duly made and
entered its order (a copy of which is also hereto attached, marked
"Exhibit B" and made a part hereof) directing the issuance of *sub-*

pœnas duces tecum, requiring the following named witnesses to appear before said examiner, in the city of St. Paul and State of Minnesota, on the 24th day of July, 1905:

4 Benjamin F. Nelson, president of the defendant Hennepin Paper Company; A. C. Bossard, treasurer of the defendant Itasca Paper Company; and Clarence I. McNair, general manager of the defendant Northwest Paper Company.

Pursuant to the said order, *subpœnas duces tecum*, directed to the said Nelson, Bossard and McNair, respectively, both individually and as officers of their respective companies, were duly issued from the office of the clerk of this court and served upon said witnesses by the marshal thereof. Copies of the said *subpœnas duces tecum* are hereto attached, marked Exhibits "C," "D" and "E," respectively, and made a part of this petition.

Third. At the said hearing before the said examiner in the city of St. Paul, State of Minnesota, on the 24th day of July, 1905, the said witnesses, Nelson, Bossard and McNair above named, appearing as aforesaid in response to the said *subpœnas duces tecum*, upon being duly sworn and examined by counsel for your petitioner, The United States of America, did refuse to answer certain questions and comply with certain requests for the production of evidence, as more particularly appears from the transcript of the testimony in this case now on file, to which transcript reference is hereby made for greater certainty.

Subsequently, and on the 21st day of September, 1905, upon a petition of the United States of America (copy of which petition is hereto attached, marked "Exhibit F" and made a part hereof) this court duly made and entered an order to show cause (a copy of which is hereto attached, marked "Exhibit G" and made a part hereof) directed to the said witnesses and to each of them, requiring them to be and appear before the Honorable Willis Van Devanter, judge thereof, at the United States circuit court room in the city of St. Paul and State of Minnesota, on the 25th day of September, 1905, at 10 o'clock in the forenoon of said day, then and there to show cause why they and each of them should not make full and

5 proper answer to each of the said questions and comply with each and every of the said requests to produce evidence which they had refused to answer and comply with upon their said examination before the said special examiner.

The hearing upon said order to show cause was, at the request of the said witnesses and of their counsel, duly continued until the 2d day of October, 1905, at 10 o'clock in the forenoon, at which time the said witnesses and each of them did appear, in person and by their counsel, in response to said order to show cause, and filed returns thereto, in which they and each of them pleaded certain constitutional and other privileges by way of excuse for their said refusals to testify and to produce evidence.

Fourth. Upon the hearing of the said order to show cause, and after arguments by counsel for your petitioner and for the said witnesses, and full consideration by this court of all of the matters

urged by and on behalf of the said witnesses, the court duly made and entered its order, (a copy of which is hereto attached, marked "Exhibit H" and made a part hereof) directing the said witnesses and each of them to be and appear before the said special examiner in the United States district court room in the city of St. Paul and State of Minnesota, at 9 o'clock in the forenoon, on Thursday, the 12th day of October, 1905, and then and there to make answer to each and every of the questions and to comply with each and every of the requests to produce evidence, which they had refused to answer and comply with upon their said examination before the said special examiner.

Fifth. Pursuant to the said order last mentioned, the said witnesses did each of them at the time and place therein specified appear before the said examiner, and their examination was thereupon resumed by counsel for the petitioner, The United States of America; and notwithstanding said order of this court last hereinbefore mentioned, and in direct violation thereof and contempt therefor, the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and each of them, did then and there refuse and still do refuse to answer each and every of the questions and to comply with each and every of the requests to produce evidence which they had respectively refused to answer or comply with upon their said former examination before the said special examiner, save and excepting that the fifth question appearing on page 711 of the typewritten testimony on file, being the second refusal scheduled as to the witness McNair, and the first, second and third questions appearing on page 733 of the typewritten testimony, being the 46th, 47th and 48th refusals, respectively, scheduled as to the said witness McNair, were not repeated to the said witness.

The said proceedings before the said examiner and the said refusals of the said witnesses and each of them to obey and comply with the said order of this court are set forth in the report of the said special examiner this day filed, a copy of which report is hereto attached, marked "Exhibit I" and made a part hereof.

This petition is made upon all of the records, files, testimony and exhibits in the cause.

Wherefore, your petitioner respectfully prays that the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair and each of them be forthwith adjudged to be in contempt of this court for and on account of their said disobedience of the said order, and that they and each of them be subjected to such penalties in connection therewith as may to the court seem just and proper for the preservation of the dignity of this court and the further enforcement of the said order.

And your petitioner will ever pray.

FRANK B. KELLOGG,
JAMES M. BECK,
ROBERT E. OLDS,
Solicitors for Petitioner,
The United States of America.

7 STATE OF MINNESOTA, } ss :
County of Ramsey, }

On this 12th day of October, 1905, before me personally appeared Robert E. Olds, to me known to be one of the solicitors for the petitioner in the above entitled cause, who, being first duly sworn, did say that he has read the foregoing petition and knows the contents thereof and that the statements therein contained are true.

C. W. G. WITHEE,
Notary Public, Ramsey County, Minnesota.
[NOTARIAL SEAL.]

8 EXHIBIT "A."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fiber and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

9 Petition for *Subpœnas Duces Tecum*.

To the honorable the judges of the United States circuit court for the district of Minnesota :

Your petitioner, The United States of America, petitioner in the above entitled cause, respectfully says :

First. That the above cause is a proceeding by way of petition brought in the United States circuit court for the district of Minnesota, by the United States of America against the above named defendants, under and pursuant to the provisions of the act of Congress of July 2nd, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies ;"

That in and by the petition in said cause, a copy of which is hereto attached, referred to and made a part hereof for greater certainty, it is among other things charged that the above named defendants did, in or about the year 1900, in the manner and form mentioned in said petition, enter into an agreement, combination and conspiracy with each other to restrain the trade and commerce among the several States, and to control, regulate and monopolize said trade and commerce in this; that the said defendants, save and excepting the General Paper Company, combined and conspired together to restrain and eliminate competition among themselves by and through the organization of a central selling agent known as The General Paper Company, another party defendant, which General Paper Company was, by various contracts and agreements thereupon made with the said other defendants, given full power and control over the product and the disposition thereof of the defendants so contracting with it.

Second. That said cause is at issue upon petition, answers and replication; that the defendants in the said cause, as more particularly appears by their respective answers, copies of which are hereto attached, referred to and made a part hereof for greater certainty, have denied the making of or entering into any combination or conspiracy as alleged in the petition, and have denied that the defendants, other than The General Paper Company, have ever conferred upon the said defendant General Paper Company any power or control over their product, or any power to fix or determine prices and terms of sale of such output.

10 Third. That a special examiner has been appointed by the United States circuit court for the district of Minnesota, with full power and authority, according to the rules and practice in such cases made and provided, to hold hearings and receive testimony in behalf of either party, at such times and places within or without the district of Minnesota as he may designate and appoint; and that pursuant to the power and authority so vested in him, said special examiner has duly made, entered, filed and served upon the counsel for the respective parties to the cause, an order for the taking of testimony in behalf of the petitioner in said cause, before him, the said examiner, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, within the district of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, said hearing to be continued at said place from day to day as may be hereafter by him, the said examiner, ordered.

Fourth. Your petitioner further states that, in order fully to determine the nature and effect of said combination and conspiracy, referred to in the petition, and satisfactorily and by competent and material evidence to establish the truth of the averments of said petition in that regard, it is proper, material and necessary to have summoned before the said special examiner at the hearing above mentioned the following witnesses, and to have produced in evidence and laid before the court for its inspection the various papers,

books and documents hereinafter particularly mentioned in the possession and under the control of said witnesses respectively.

11 Fifth. Your petitioner further states that the testimony heretofore taken in said cause shows that the defendant Hennepin Paper Company made and entered into a contract with the defendant General Paper Company on July 5th, 1900, whereby the defendant General Paper Company was made the exclusive sales agent for all of the product manufactured by the said defendant Hennepin Paper Company, which contract has been renewed from time to time, and is still in force; that the defendant Itasca Paper Company made and entered into a contract with the defendant General Paper Company on February 5th, 1902, whereby the defendant General Paper Company was made the exclusive sales agent for all of the product manufactured by the defendant Itasca Paper Company, which contract has been renewed, and is still in force; that the defendant Northwest Paper Company made and entered into a contract with the defendant General Paper Company on April 8th, 1902, whereby the defendant General Paper Company was made the exclusive sales agent for all of the product manufactured by the defendant Northwest Paper Company, which contract has been renewed, and is still in force.

Sixth. Your petitioner further states that the books, contracts and papers, hereinafter particularly designated and referred to, contain evidence material and necessary to be laid before the court in order to establish the allegations of the petition or bill of complaint herein; and your petitioner states, on information and belief, that the said books, contracts and papers will, among other things, establish the fact that the prices and amounts realized by the defendants other than the defendant General Paper Company, upon various grades and kinds of paper by them manufactured, and sold by and through the defendant General Paper Company, are and have been, by and through the medium of the said defendant General Paper Company and pursuant to and in furtherance of the conspiracy and combination in restraint of trade and commerce alleged in said petition or bill of complaint, equalized among the defendants manufacturing said grades and kinds of paper, and that the profits arising from the sale of such paper, over and above a certain

12 uniform and arbitrary price placed thereon, have been likewise, pursuant to and in furtherance of said combination and conspiracy, distributed and apportioned among the said defendants other than the defendant General Paper Company.

Wherefore, your petitioner respectfully prays that an order may issue, directing the clerk of the circuit court of the United States for the district of Minnesota, to issue under the seal of said court and to sign and to attest *subpoenas duces tecum*, as follows:

To B. F. Nelson, individually and as president of the Hennepin Paper Company, residing at Minneapolis, Minnesota, commanding him to attend before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the

United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and commanding him to bring with him and produce at the time and place aforesaid the following books, papers and documents, to-wit:

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Hennepin Paper Company or the said B. F. Nelson, president of the said Hennepin Paper Company—

(A.) Showing the amount and kinds or grades of paper manufactured by the said defendant Hennepin Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Hennepin Paper Company, since the 5th day of July, 1900, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July, 1900;

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between
13 the 5th day of July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Hennepin Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of July, 1900, and the present time;

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Hennepin Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Hennepin Paper Company or the said B. F. Nelson president of the said defendant Hennepin Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Hennepin Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of July, 1900, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Hennepin Paper Company and other defendants manufacturing and selling through the defendant General Paper

Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

14 To C. I. McNair, individually and as general manager of the Northwest Paper Company, residing at Cloquet, Minnesota, commanding him to attend before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and commanding him to bring with him and produce at the time and place aforesaid the following books, papers and documents, to-wit :

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair, general manager of the said Northwest Paper Company—

(A.) Showing the amount and kinds or grades of paper manufactured by the said defendant Northwest Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the defendant Northwest Paper Company, since the 8th day of April, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July, 1900;

(B.) Showing the prices, amounts and credits received for such paper from the defendant General Paper Company, between the 8th day of April, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Northwest Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 8th day of April, 1902, and the present time;

15 (C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Northwest Paper Company, from or through the General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 8th day of April, 1902, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair general manager of the said defendant Northwest Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Northwest

Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 8th day of April, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Northwest Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds of grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

To A. C. Bossard, individually and as treasurer of Itasca Paper Company, residing at Grand Rapids, Minnesota; and

H. G. Becker, individually and as secretary of Itasca Paper Company, residing at —, Minnesota; commanding them and each of them to attend before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and commanding them and each of them to bring with them and produce at the time and place aforesaid the following books, papers and documents, to-wit:

16 First. The account books, including the journals, ledgers, and other books kept by or under the control of the defendant Itasca Paper Company, or the said A. C. Bossard and H. G. Becker, treasurer and secretary, respectively, of the defendant Itasca Paper Company—

(A.) Showing the amount and kinds or grades of paper manufactured by the said defendant Itasca Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Itasca Paper Company, since the 5th day of February, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of February, 1902;

(B.) Showing the prices, amounts, or credits, received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Itasca Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products, or for similar products, between the 5th day of February, 1902, and the present time;

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Itasca Paper Company, from or through the defendant

General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of February, 1902, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Itasca Paper Company or the said A. C.

17 Bossard and H. G. Becker, treasurer and secretary, respectively, of the said defendant Itasca Paper Company, showing the agreement, arrangement or understanding under and pursuant to which, and the manner in which, the prices and amounts realized by the said defendant Itasca Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of February, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Itasca Paper Company and the other defendants manufacturing, and selling through the defendant General Paper Company, similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

And your petitioner will ever pray.

(Signed)

JAMES M. BECK,
FRANK B. KELLOGG,
Solicitors for Petitioner.

(Signed) FRANK B. KELLOGG,
Special Assistant Attorney General
of the United States.

18 STATE OF MINNESOTA, } ss:
County of Ramsey,

Frank B. Kellogg, being first duly sworn, says that he is a special assistant to the Attorney General of the United States and one of the solicitors for the petitioner in the above cause; that he has read the foregoing petition, knows the contents thereof, and that the statements therein contained, except as to matters therein stated on information and belief, are true.

Affiant further says that the papers, books and documents referred to in said petition are, as he is informed and verily believes, within the possession and control of the witnesses who are respectively asked to produce them.

(Signed)

FRANK B. KELLOGG.

Subscribed and sworn to before me this 14th day of July, 1905.

[NOTARIAL SEAL.] (Signed) GUY CHASE,
Notary Public, Ramsey County, Minnesota.

- 19 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, Manufacturers Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

Petition.

William H. Moody, Attorney General of the United States.

Frank B. Kellogg, James M. Beck, special assistant attorneys general of the United States.

Charles C. Haupt, attorney of the United States for the district of Minnesota.

- 20 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATE OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, Manufacturers Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

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Petition.

To the judges of the circuit court of the United States for the district of Minnesota, third division :

And now comes the United States of America by Charles C. Haupt, the United States Attorney for the district of Minnesota,

acting under the direction of the Attorney General of the United States, and brings this its proceeding by way of petition against General Paper Company, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, Manufacturers Paper Company, The Petoskey Fibre Paper Company, and the Rhinelander Paper Company, corporations duly organized as hereinafter more particularly alleged, and for its bill of complaint, on information and belief, complains and alleges:

I.

That each of the following named corporations defendants herein, was, during all the times hereinafter stated, and still is, a corporation duly created and organized under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business in said State, as hereinafter stated after the name of each corporation, to-wit:

- Atlas Paper Company, Appleton, Wisconsin,
- Kimberly and Clark Company, Neenah, Wisconsin,
- Riverside Fibre and Paper Company, Appleton, Wisconsin,
- Wausau Paper Mills Company, Brokaw, Wisconsin,
- Centralia Pulp and Water-power Company, Centralia, Wisconsin,
- Combined Locks Paper Company, Combined Locks, Wisconsin,
- Dells Paper and Pulp Company, Eau Claire, Wisconsin,
- 23 Grand Rapids Pulp and Paper Company, Grand Rapids, Wisconsin.
- Menasha Paper Company, Menasha, Wisconsin,
- The Nekoosa Paper Company, Nekoosa, Wisconsin,
- The Falls Manufacturing Company, Oconto Falls, Wisconsin,
- Flambeau Paper Company, Park Falls, Wisconsin,
- The John Edwards Manufacturing Company, Port Edwards, Wisconsin,
- The C. W. Howard Company, Menasha, Wisconsin,
- Wolf Paper and Fiber Company, Richmond, Wisconsin,
- The Wisconsin River Paper and Pulp Company, Plover, Wisconsin,
- Tomahawk Pulp and Paper Company, Park Falls, Wisconsin,
- Consolidated Water Power and Paper Company, Grand Rapids, Wisconsin,
- Rhinelander Paper Company, Rhinelander, Wisconsin.

That each of the following named corporations, defendants
24 herein, was, during all the times hereinafter stated, and still is, a corporation duly created and organized under and by virtue of the laws of the State of Minnesota, with its principal office and place of business in said State, as hereinafter stated after the name of each corporation, to-wit:

The Itasca Paper Company, Grand Rapids, Minnesota,
Hennepin Paper Company, Little Falls, Minnesota,
Northwest Paper Company, Cloquet, Minnesota.

That the defendant The Petoskey Fibre Paper Company is, and during all the times hereinafter stated was, a corporation duly created and organized under the laws of the State of Michigan, with its principal office and place of business at Petoskey, Michigan.

II.

That the corporations named in the paragraph next preceding are, and during all times hereinafter stated were, engaged in manufacturing news print, manilla, fibre, and other papers, at mills situated at their respective principal places of business in the States
aforesaid (the Kimberly and Clark Company having, in addition, mills at Kimberly, Wisconsin, and Quinnesec, Michigan), and in selling and shipping the products aforesaid to dealers and owners and managers of newspapers and other consumers in those and other States, to-wit, the States of Illinois, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Montana, Utah, Colorado, Kansas, Nebraska, Missouri and other States west of the Mississippi river.

III.

That prior to the year 1900, and, more particularly prior to about the month of May, 1900, when the defendant, The General Paper Company, was organized, as hereinafter set forth, the aforesaid corporations, which comprise substantially all of the manufacturers of paper in the territory defined in the paragraph next preceding, were competing with each other and with the defendant The Manufacturers Paper Company in the sale and shipment of news print, manilla, fibre, and other papers, in and throughout that territory.

IV.

That in or about the month of May, in the year 1900, the defendants Kimberly and Clark Company, Atlas Paper Company, Combined Locks Paper Company, The C. W. Howard Company,
26 The John Edwards Manufacturing Company, The Nekoosa Paper Company, Centralia Pulp and Water-power Company, Grand Rapids Pulp and Paper Company, The Wisconsin River Paper and Pulp Company, Wausau Paper Mills Company, Tomahawk Paper and Pulp Company, Dells Paper and Pulp Company, The Falls Manufacturing Company, and the Hennepin Paper Com-

pany, in violation of the provisions of sections 1 and 2, respectively, of an act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" (26 Stats. 209), entered into an agreement, combination and conspiracy with each other to restrain the trade and commerce among the several States, and to control, regulate and monopolize said trade and commerce and thereby, in conjunction and alliance with defendants who subsequently joined in the aforesaid agreement, combination and conspiracy as set forth in the paragraph next succeeding, do now control, regulate and monopolize and restrain the trade and commerce not only in the manufacture of news print, manilla, fibre, and other papers, but also the distribution, sale and shipment thereof among and throughout the States of the Union aforesaid and all States west of the Mississippi river by means and in the manner following, to-wit: On or about the 26th day of May, 1900, the

27 defendants last above named caused to be organized, under the laws of the State of Wisconsin, a corporation styled the General Paper Company, with a capital stock of one hundred thousand dollars, divided into one thousand shares, which were distributed among, and are now owned and held by, the said last named defendants and the defendants that subsequently joined in the aforesaid combination and conspiracy, as hereinafter set forth, in proportions based, as your petitioner is informed, upon the average daily output of the mills of each defendant, which corporation, by its articles of incorporation, is authorized to become, as its principal business, the sales agent for any and all kinds of paper and paper products, and any and all merchandise manufactured from paper or paper products by mills in the State of Wisconsin or elsewhere; and thereupon, in pursuance of a common plan and understanding, each and all of the aforesaid defendants entered into a contract and agreement with the said General Paper Company making it the exclusive selling agent for their papers and paper products, and conferring upon it absolute power to control and restrict the output of their mills, fix the price of all papers sold throughout the States aforesaid, and determine to whom and the terms and conditions upon which paper shall be sold, and into what States

28 and places it shall be shipped, and what publishers and other customers each mill shall supply.

V.

That at different times thereafter the remaining defendants engaged in the manufacture and sale of paper in the territory aforesaid, namely, the Northwest Paper Company, the Consolidated Water-power and Paper Company, The Itasca Paper Company, The Petoskey Fibre Paper Company, the Menasha Paper Company, the Rhinelander Paper Company, the Flambeau Paper Company, and the Wolf River Paper and Fiber Company, entered into and became parties to the aforesaid agreement, combination and conspiracy; that is to say, they each and all entered into a contract and agree-

ment with the said General Paper Company, making it the exclusive selling agent for their papers and paper products, and conferring upon it absolute power to control and restrict the output of their mills, fix the price of all paper sold throughout the States aforesaid, and determine to whom and the terms and conditions upon which paper shall be sold, and into what States and places it shall be shipped, and what publishers and other customers each mill shall supply; and in turn the defendants last above named became stockholders in the said General Paper Company on the basis described in the last preceding paragraph.

VI.

That each of the said defendant companies for which the General Paper Company became, in the manner aforementioned, and is now, the general selling agent, agreed to and does pay to the said General Paper Company, for acting as its selling agent, a certain percentage upon all sales of paper manufactured by it, and that out of the amount received from this source the said General Paper Company agreed to, and does, deduct its annual expenses for the sale of the product, and the balance is divided between the said defendant companies as stockholders of the said General Paper Company.

VII.

That during all the times herein stated the Manufacturers Paper Company has been and now is a corporation duly created and organized under and by virtue of the laws of the State of New York, with its principal place of business in the city of Chicago in the State of Illinois, and that from about the year 1897 down to 30 sometime during the year 1902 (when it entered into the combination with the General Paper Company as hereinafter alleged) it was engaged in the paper business at Chicago acting as sales agent for various manufacturers of paper to the complainant unknown, for the sale of news print and other papers to the various owners and publishers of newspapers and other consumers and dealers in the States and territory hereinbefore described.

That about the year 1902 the said Manufacturers' Paper Company entered into and became a party to the said combination and conspiracy, but upon exactly what terms and conditions and considerations complainant is unable to state, except that it agreed with the said General Paper Company not to compete with the said company for any business in the territory of Wisconsin, or States west of the Mississippi, or to offer any paper from the East to any customer of the General Paper Company either directly or indirectly.

That thereafter and to the present time the said Manufacturers' Paper Company has been a party to said combination and conspiracy and has not competed for business in the said territory.

VIII.

31 That by virtue of and through the instrumentality of the agreement, combination and conspiracy hereinbefore described, all competition in the manufacture, sale and distribution of news print, manilla, fibre and other papers in the States hereinbefore described and in all the other States west of the Mississippi river, has been suppressed and the price of all paper products greatly increased, that of news print paper in the territory aforesaid having been increased about fifty per cent.

And that no dealers or newspapers or other consumers in said territory, with the exception of certain newspaper publishers in St. Louis and Chicago, can purchase any paper except directly or indirectly through the General Paper Company, and then only upon prices and terms dictated by the latter.

In consideration whereof, and inasmuch as adequate relief in the premises can only be obtained in this court, the United States of America prays your honors to order, adjudge and decree that the combination or conspiracy hereinbefore described is unlawful, and that all acts done or to be done to carry it out are in derogation of the common rights of all the people of the United States, and in violation of the act of Congress of July 2, 1890, entitled: "An act to protect trade and commerce against unlawful restraints and monopolies," and that the defendants and each and every one of

32 them, and their officers, directors, stockholders, agents and servants, and each and every one of them, be perpetually enjoined from doing any act in pursuance of or for the purpose of carrying out the same, and, in addition thereto, that the several defendants be respectively enjoined as follows:

First. That the defendant The General Paper Company be enjoined from acting as the sales agent and fixing the price at which the news print, manilla, fibre and other paper of the various defendant corporations shall be sold, and the persons, corporations and newspapers to which it shall be sold, and into what States it shall be shipped and sold.

Second. That each and every of the other defendants be enjoined and restrained from continuing the said arrangement with the said General Paper Company, and from making the said General Paper Company the exclusive selling agent of the said defendants and each of them, and from authorizing the said General Paper Company to restrict the output, fix the price of and terms of sale of the product of each of the defendants' mills and manufactories, or to dictate and determine the persons, corporations or newspapers to which it shall be sold, and the States into which the same shall be shipped and sold.

33 The United States prays for such other and further relief as the nature of the case may require and the court may deem proper in the premises.

To the end, therefore, that the United States of America may obtain the relief to which it is justly entitled in the premises, may it please your honors to grant unto it writs of subpœna directed to said defendants, General Paper Company, The Itasca Paper Company, Heunepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, The Petoskey Fibre Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, Manufacturers Paper Company, The Rhinelander Paper Company, and each and every of them, commanding them and each of them to appear herein and answer (but not under oath,

34 answer under oath being hereby expressly waived) the allegations contained in the foregoing petition, and abide by and perform such order or decree as the court may make in the premises, and upon the final hearing hereof to permanently enjoin the defendants as hereinbefore prayed, and pending the final hearing of this case to cause a temporary restraining order to issue, enjoining the defendants and each of them and each of their officers, agents and servants, as hereinbefore prayed.

CHAS. C. HOUPPT,
Attorney of the United States
for the District of Minnesota.

WILLIAM H. MOODY,
Attorney General of the United States,
JAMES M. BECK,
FRANK B. KELLOGG,
Special Assistant Attorneys General of the United States,
DAVIS, KELLOGG & SEVERANCE,
Of Counsel.

35 UNITED STATES OF AMERICA, } ss :
District of Minnesota, Third Division, }

Charles C. Haupt, being duly sworn, says that he is the United States attorney for the district of Minnesota, and that he has read the foregoing bill of complaint and knows the contents thereof, and that the same is true of his own knowledge except as to those matters therein stated on his information and belief, and as to those matters he believes them to be true. He further states that he is authorized to sign the said bill of complaint for The United States of America,

the complainant therein by the Attorney-General of the United States.

CHAS. C. HOUHT,
Attorney of the United States
for the District of Minnesota.

Subscribed in my presence and sworn to before me this 27th day of December, A. D. 1904.

[Seal U. S. Cir. Court.]

HENRY D. LANG,
Clerk of the United States Circuit Court
for the District of Minnesota.

36 Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper & Fibre Company, Atlas Paper Company, Kimberly & Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, Manufacturers Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

The joint and several answers of General Paper Company, The Itasca Paper Company, Hennepin Paper Company, Wolf River Paper & Fibre Company, Atlas Paper Company, Kimberly & Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, and The Petoskey Fibre Paper Company to the petition and bill of complaint of The United States of America the complainant.

37 These defendants now and at all times hereafter saying to themselves all and all manner of benefit or advantage of exception or

otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in the said petition and bill contained, for answer thereto or to so much thereof as these defendants are advised it is material or necessary for them to take answer to, jointly and severally answering, say :—

First. They severally admit their incorporation and places of business respectively, as alleged in the first paragraph of said petition and complaint.

Second. They admit the allegations contained in the second paragraph of said petition and complaint.

Third. They admit that prior to the year 1900 and prior to the month of May, 1900, these defendants and the other defendants named in the said first paragraph of said petition and complaint, were competing with each other and with the defendant Manufacturers' Paper Company, in the sale and shipment of news print, manila, fibre and other papers, in and throughout the territory mentioned and described in the second paragraph of said petition and complaint, and these defendants allege that they have ever since continued to so compete and are now so competing. These defendants deny that they, with the other defendants named in the said petition and complaint, comprise substantially all of the manufacturers of paper in the territory defined in the second paragraph of

said petition and complaint, but on the contrary allege that
38 there are now and have been, since prior to the year 1900, a number of other manufacturers of paper in said territory, competing with each other and with these defendants and the other defendants named in said bill and complaint.

Fourth. The defendants Kimberly & Clark Company, Atlas Paper Company, Combined Locks Paper Company, The C. W. Howard Company, The John Edwards Manufacturing Company, The Ne-koosa Paper Company, Centralia Pulp and Water-power Company, Grand Rapids Pulp and Paper Company, The Wisconsin River Paper and Pulp Company, Wausau Paper Mills Company, Tomahawk Paper and Pulp Company, Dells Paper and Pulp Company, The Falls Manufacturing Company, and The Hennepin Paper Company, deny, and upon information and belief the other of these answering defendants likewise deny, that the defendants specifically named in the fourth paragraph of said petition and complaint, in or about the month of May, 1900, or at any other time, entered into an agreement, combination or conspiracy with each other, or into any agreement, combination or conspiracy whatever with any person or corporation whatever, to restrain the trade or commerce among the several States, or to restrain the trade or commerce among any States whatever or within any State whatever, or to control or monopolize said trade or commerce, and that they or any of these answering defendants have ever, at any time, made, formed or entered into any such agreement, combination or conspiracy; and these answering defendants deny that they or any of them do now control, monopolize or restrain the trade and commerce between

any States whatever or within any State, either in the manufacture of news print, manila, fibre or other paper, or in the distribution, sale or shipment thereof among or throughout the States of the Union, or among or between any States whatever, or within the limits or borders of any State whatever, by any means or in any manner whatever.

These defendants admit that on or about the 20th day of May, 1900, a corporation styled the "General Paper Company" was organized under the laws of the State of Wisconsin, with a capital stock of \$100,000 divided into 1,000 shares, which corporation, by its articles of incorporation, was authorized to become, as its principal business, the sales agent for any and all kinds of paper and paper products, and any and all merchandise manufactured from paper or paper products, by mills of the State of Wisconsin or elsewhere.

They further admit that thereafter each of these answering defendants other than said General Paper Company, separately entered into a contract with said General Paper Company, making said General Paper Company its exclusive selling agent for a definite period specified in such contract, to sell certain specified grades or descriptions of paper manufactured by the other party to such contract, to wit, the mill so contracting, such grades or descriptions of paper comprising all box lining, hanging, novel, print, fibre and manila papers manufactured by the defendant mill so contracting.

But they deny that any defendant mill, by such contract or agreement or otherwise, ever conferred upon said General Paper Company the power to control or restrict the output of the defendant mill or mills so contracting, or to fix the price of all or any papers sold throughout the States aforesaid, or to determine to whom or the prices or conditions upon which the paper manufactured by such defendant mills or by any of them should be sold, or into what States or places it should be shipped or what publishers or other customers each mill should supply.

And these defendants allege that under such contracts, it was made the duty of the said General Paper Company to use its best efforts to keep the mill or mills owned or controlled by the other party to each of said contracts, supplied with orders for paper at the best prices reasonably obtainable, and to submit all orders so obtained to the mill for which the same was taken, for its approval or rejection, and to transmit all orders received by or offered to it

for a particular mill to the mill selected by the customer for the approval or rejection of such mill, to the end that each of such mills might be supplied with orders to the full extent of its capacity and the demands of the trade supplied, in the most prompt and efficient manner possible.

Save as aforesaid, these defendants deny each and every matter, allegation and charge in the fourth paragraph of said petition and complaint contained.

Fifth. They admit that each of the defendants for which the Gen-

eral Paper Company acts as sales agent, has agreed to and does pay to the said General Paper Company, for acting as its sales agent, a certain percentage upon all sales of paper manufactured by it, which said percentage is fixed by the terms of the aforesaid agreement made between said General Paper Company and each of these defendants.

They further admit that the profits of the business of said General Paper Company, after payment of its expenses, are divided between the stockholders of said General Paper Company in proportion to their holdings. And save and except as aforesaid, these defendants deny each and every matter, allegation and charge in the sixth paragraph of said petition and complaint contained.

Sixth. Upon information and belief these defendants admit that the Manufacturers Paper Company has been and now is a corporation duly created and organized under and by virtue of the laws of the State of New York, with its principal place of business in the city of New York and having a branch office in the city of Chicago in the State of Illinois, as in said petition and complaint alleged.

They deny that about the year 1902, or at any other time, the said Manufacturers Paper Company entered into or became a party to any combination or conspiracy whatever with these defendants or any of them, and they deny that it was ever agreed between said Manufacturers Paper Company and the General Paper Company, or between the said Manufacturers Paper Company and any of these defendants, that the said Manufacturers Paper Company should not compete with said General Paper Company or any other company

41 or person whatever, for any business in the territory of Wisconsin or States west of the Mississippi, or for any business in any territory whatever; or that the said Manufacturers Paper Company should not offer any paper from the East or from any other section of the country whatever, to any customer of the General Paper Company, either directly or indirectly. And these defendants deny that they or any of them ever made or entered into any combination, agreement or conspiracy whatever with said Manufacturers Paper Company respecting the manufacture, sale or distribution of paper in any territory whatever.

And save as aforesaid, these defendants deny each and every allegation, charge, matter and thing in the seventh paragraph of said petition and complaint contained.

Seventh. These defendants deny each and every matter, thing, allegation and charge in the eighth paragraph of said petition and complaint contained.

And save as aforesaid, these defendants deny each and every matter, allegation and charge in said complaint contained.

And these defendants jointly and severally deny all and all manner of unlawful combination and confederacy wherewith they or any of them are by the said bill charged, without this, that there is any other matter, charge, cause or thing in the said complainant's said petition and complaint contained, material or necessary for

these defendants to make answer unto, and not herein or hereby well and sufficiently answered, confessed, traversed and avoided, or denied, is true, to the knowledge or belief of these defendants, all of which matters or things these defendants are ready and willing to aver, maintain and prove, as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

GENERAL PAPER COMPANY,
By GEO. A. WHITING,
1st Vice President.

[CORPORATE SEAL.]
Attest:
42

JAMES G. FLANDERS, Solicitor.
THE ITASCA PAPER COMPANY,
By FRANK F. BECKER, President.

[CORPORATE SEAL.]
Attest:

HENRY G. BECKER, Secretary.
HENNEPIN PAPER COMPANY,
By B. F. NELSON, President.

[CORPORATE SEAL.]
Attest:

W. ED. NELSON, Secretary.
WOLF RIVER PAPER AND FIBRE
COMPANY,
By W. C. ZACHOW, President.

[CORPORATE SEAL.]
Attest:

F. D. NABER, Secretary.
ATLAS PAPER COMPANY,
By H. SHATTUCK, Acting President.

[CORPORATE SEAL.]
Attest:
Attest:

H. SHATTUCK, Secretary,
JAMES G. FLANDERS, Solicitor.
KIMBERLY & CLARK COMPANY,
By F. J. SENSENBRENNER,
Vice President.

[CORPORATE SEAL.]
Attest:

H. SHATTUCK, Secretary.
RIVERSIDE FIBRE AND PAPER
COMPANY,
By HENRY D. SMITH, President.

[CORPORATE SEAL.]
Attest:

W. B. MURPHY, Secretary.
WAUSAUPAPER MILLS COMPANY,
By WALTER ALEXANDER, President.

[CORPORATE SEAL.]
Attest:

W. L. EDMONDS, Secretary.
CENTRALIA PULP AND WATER-
POWER COMPANY,
By F. GARRISON, President.

[CORPORATE SEAL.]

Attest: F. GARRISON, Acting Secretary.
 Attest: JAMES G. FLANDERS, Solicitor.
 COMBINED LOCKS PAPER COM-
 PANY,
 By WM. VAN NORTWICK,
 Acting President.

[CORPORATE SEAL.]

Attest: WM. VAN NORTWICK, Secretary.
 Attest: JAMES G. FLANDERS, Solicitor.
 DELLS PAPER AND PULP COM-
 PANY,
 By W. L. DAVIS, President.

43

[CORPORATE SEAL.]

Attest: J. T. ROYCE, Secretary.
 GRAND RAPIDS PULP AND
 PAPER COMPANY,
 By C. F. KELLOGG, Vice President.

[CORPORATE SEAL.]

Attest: C. F. KELLOGG, Acting Secretary.
 Attest: JAMES G. FLANDERS, Solicitor.
 MENASHA PAPER COMPANY,
 By S. E. SMITH, President.

[CORPORATE SEAL.]

Attest: M. H. BALLOU, Secretary.
 THE C. W. HOWARD COMPANY,
 By C. W. HOWARD, President.

[CORPORATE SEAL.]

Attest: F. W. HAWKS, Secretary.
 THE NEKOOSA PAPER COMPANY,
 By F. GARRISON, Vice President.

[CORPORATE SEAL.]

Attest: F. GARRISON, Acting Secretary.
 Attest: JAMES G. FLANDERS, Solicitor.
 THE FALLS MANUFACTURING
 COMPANY,

By GEO. O. BERGSTROM,
 Vice President.

[CORPORATE SEAL.]

Attest: J. H. DELBRIDGE, Secretary.
 FLAMBEAU PAPER COMPANY,
 By WM. P. HARPER, President.

[CORPORATE SEAL.]

Attest: E. P. SHERRY, Secretary.
 THE JOHN EDWARDS MANU-
 FACTURING COMPANY,
 By F. GARRISON, Acting President.

[CORPORATE SEAL.]

Attest: F. GARRISON, Secretary.
 Attest: JAMES G. FLANDERS, Solicitor.

THE WISCONSIN RIVER PAPER
AND PULP COMPANY,
By GEO. A. WHITING, President.

[CORPORATE SEAL.]

Attest :

C. A. BABCOCK, Secretary.

44

TOMAHAWK PULP AND PAPER
COMPANY,

By A. M. PRIDE, Acting President.

[CORPORATE SEAL.]

Attest :

A. M. PRIDE, Acting Secretary.

Attest :

JAMES G. FLANDERS, Solicitor.

NORTHWEST PAPER COMPANY,

By R. M. WEYERHAENSEN, President.

[CORPORATE SEAL.]

Attest :

HUNTINGTON TAYLOR,

Ass't Secretary.

CONSOLIDATED WATER POWER
AND PAPER COMPANY,

By FALKLAND MACKINNON, President.

[CORPORATE SEAL.]

Attest :

F. MACKINNON, Acting Secretary.

Attest :

JAMES G. FLANDERS, Solicitor.

THE PETOSKEY FIBRE PAPER
COMPANY,

By JOHN J. REYCROFT, Vice President.

[CORPORATE SEAL.]

Attest :

EDWARD D. WARNER, Secretary.

JAMES G. FLANDERS AND

WILLIAM BRACE,

Solicitors and Counsel for the

Aforesaid Answering Defendants.

WINKLER, FLANDERS, SMITH,

BOTTUM & FAWSETT AND

DEFREES, BRACE & RITTER,

Of Counsel.

(Endorsed :) Answer of all the defendants *except* that of Manufacturers Paper Co. and Rhinelander Paper Co.

45 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fibre Company, Atlas Paper Company, Kimberly & Clark Company, Riverside Paper & Fibre Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper & Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water-power and Paper Company, Manufacturers Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

Answer of The Rhinelander Paper Company, one of the above named defendants, to the bill of complaint of the above named complainant, The United States of America.

This defendant, now and at all times saving and reserving unto itself all benefit and advantage of exception to the many errors, uncertainties, imperfections and insufficiencies in the complainant's said bill of complaint contained, for answer thereto, or to so much and such parts thereof as the said defendant is advised is material for it to make answer to, answering says:

46

I.

For answer to paragraph numbered I of said bill of complaint this defendant admits that it is a corporation, created and organized under the laws of the State of Wisconsin. This defendant does not know and has not been informed, save by said bill of complaint, whether its co-defendants, who are alleged by paragraph I of said bill of complaint to be corporations organized under the laws of the State of Wisconsin, are such in fact, or have any corporate existence, and neither does said defendant know, nor is it advised, save by said bill of complaint, whether its co-defendants, alleged by said paragraph numbered I of said complaint to be corporations organized under the laws of the State of Michigan and Minnesota, are such in fact, or that said defendants have any corporate existence.

II.

For answer to paragraph numbered II of said bill of complaint, this answering defendant admits that the parties named as defend-

ants in paragraph numbered I of said bill were engaged in the business of manufacturing news print, manilla, fibre and other papers at their respective mills, and in marketing and selling their manufactured product in the territory alleged in said paragraph II of said bill, as well as in other territory not therein described or set forth, but whether such manufacturing was done or said sales were made by said parties as individuals, firms or corporations this defendant does not know and is not informed, save by said bill of complaint. The answering defendant admits and avers that it, as a corporation, manufactured paper and sold the same wherever it could find a market therefor, and that it markets its product in the States named in said bill, as well as in other States not therein named.

III.

47 For answer to paragraph numbered III of the bill of complaint, this defendant avers that it was not organized until the year 1903, and that it does not know and has not been informed, save by said bill of complaint, as to what paper manufacturers were competing for business in the territory mentioned and described in the complaint during the year 1900.

IV.

Answering paragraph numbered IV of the bill of complaint, this defendant admits that it is informed and believes that the defendant, The General Paper Company, was organized during the month of May, 1900, with a capital stock of \$100,000.00, but this defendant does not know and is not advised, save by said bill of complaint, as to who the original stockholders in said corporation were, or whether or not the parties named in paragraph numbered IV of said bill of complaint as being the organizers of said corporation, organized the same or not. This defendant does not know and is not advised, save by said bill of complaint, that the parties mentioned in said paragraph numbered IV entered into any agreement, combination or conspiracy with each other to restrain trade or commerce, or to control, regulate or monopolize trade or commerce, and denies on information and belief that any agreement was made by the parties mentioned in said paragraph numbered IV that was in violation of the provisions of the act of Congress approved July 2, 1890 entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and on information and belief this answering defendant further denies that any agreement, combination or conspiracy was entered into between the parties mentioned in said paragraph IV of said bill of complaint to restrain trade or commerce among the several States, or to control, regulate or monopolize trade or commerce therein. And the answering defendant further denies that the defendants who are alleged to have organized said General Paper Company, in said paragraph IV of said bill of complaint,

entered into any agreement, conspiracy or combination with
48 other parties alleged to have subsequently joined in said unlawful agreement for the purpose of regulating, monopolizing or restraining trade or commerce, or that any agreement was made between said parties for any unlawful purpose.

Further answering said paragraph IV of said bill of complaint, this defendant does not know and is not advised who the stockholders of said General Paper Company are, or how said stock was apportioned among the several holders thereof, and asks that said complainant be required to prove the allegations of the bill in this behalf.

Further answering said paragraph IV of said bill, this defendant admits that said General Paper Company, by its articles of incorporation, is authorized to become, as its principal business, sales agent for any and all kinds of paper and paper products, and any and all merchandise manufactured from paper or paper products by mills in the State of Wisconsin, or elsewhere.

Further answering said paragraph numbered IV of said bill of complaint, this defendant does not know and is not advised, except by said bill of complaint, as to whether or not all of the defendants named in said bill of complaint entered into an agreement with the General Paper Company for making it the exclusive selling agent for their papers and paper products, and on information and belief alleges that if such contracts were in fact entered into, they were not entered into as a result of any common plan or understanding between the parties finally making and constituting said General Paper Company their sales agent.

This defendant further answering said paragraph IV of said complaint denies that said defendants, or any or either of them, conferred any power upon said General Paper Company to control or restrict the output of its mills. The answering defendant denies that said General Paper Company is by it authorized to fix the price at which its paper is to be sold, or that said General Paper Company

49 has the right to determine to whom, and what terms and conditions, its paper shall be sold, or into what States it shall be shipped, or to whom it shall be shipped; on the contrary, this defendant alleges and avers that while it is the business of said General Paper Company to solicit orders for paper and make sales thereof, and obtain reasonable prices therefor, all orders taken by said General Paper Company for the answering defendant are subject to its approval, and it has the right to reject the same for inadequacy of price, or lack of sufficient financial standing on the part of the purchaser, or for any other good or sufficient reason.

Further answering said paragraph numbered IV of said bill of complaint, the answering defendant avers that it does not know and is not advised as to the nature of the contracts made and entered into between the General Paper Company and its co-defendants who are engaged in the business of manufacturing paper.

V.

This defendant, answering paragraph numbered V of the bill of complaint, states that it does not know and is not advised, save by said bill of complaint, as to whether The Northwest Paper Company, The Consolidated Water-power Paper Company, The Itasca Paper Company, The Petoskey Fibre Company, The Menasha Paper Company, The Flambeau Paper Company, or The Wolf River Paper and Fiber Company, entered into or became parties to any agreement with said General Paper Company, or with the corporations which it is alleged in paragraph IV of said bill caused said General Paper Company to be incorporated.

This defendant admits that during the year 1904 it entered into a contract with said General Paper Company, by the terms and conditions of which contract said General Paper Company agreed to use its best efforts to sell, at the best prices obtainable and upon the best terms and conditions, any and all paper manufactured by said Rhinelander Paper Company and entrusted to it for sale by said Rhinelander Paper Company; further, that said General

50 Paper — should use its best efforts to keep the mills of said Rhinelander Paper Company supplied with orders that were adapted to suit the various machines in its said mill; also that said General Paper Company agreed to use its best efforts to secure and maintain harmony between said Rhinelander Paper Company and its customers; that, in consideration of such agreement on the part of said General Paper Company, said Rhinelander Paper Company on its part, agreed to pay said General Paper Company a commission of 3 % on all sales effected by said General Paper Company for said Rhinelander Paper Company and approved by the latter; that said contract further provided that all sales effected by said General Paper Company for said Rhinelander Paper Company should be made and obtained subject to the approval of said Rhinelander Paper Company; that, under the terms of said contract, so long as said General Paper Company was able to secure orders sufficient to take the entire product or output of the mill of said company, said General Paper Company had the sole right to sell its product; that such contract did not exclude said Rhinelander Paper Company from selling its own paper, or selling its paper through other agencies, in the event that said General Paper Company did not furnish sufficient orders to use the entire output of said mill.

Further answering said paragraph V of said complaint, this defendant specifically denies that it ever authorized or empowered the General Paper Company to control or restrict its product, or the output of its mill, or that said General Paper Company ever exercised or assumed to exercise any such right, power or authority; denies that said General Paper Company, or anybody else, ever in any manner, directly or indirectly, restricted the output of the manufactured product of said Rhinelander Paper Company.

This defendant admits that said General Paper Company quoted prices on paper for this defendant, but only made such quotations

as were satisfactory to said defendant, and avers that the acts of said General Paper Company in making prices on paper were
51 not different from the acts of any other agent selling merchandise for his or its principal.

Further answering said paragraph V of said bill of complaint, this defendant expressly denies that it ever became a stockholder in the General Paper Company, or that it has any financial interest, direct or remote, in said General Paper Company.

This defendant further answering said paragraph V of said bill of complaint alleges that the aforesaid contract made and entered into between it and said General Paper Company is not, as it verily believes, a contract in restraint of trade, and is not a contract that is unlawful within the meaning of any statute of the United States or of the law of the land; that said defendant made and entered into said contract with said General Paper Company as a matter of economy, and because it believed that the price charged by said General Paper Company for marketing and selling its product was less than said defendant could sell and dispose of its manufactured product for if it adopted any other means of selling, and the answering defendant further alleges that it entered into said contract in good faith, believing that it had the right to do so, and that it had the right to appoint any agent it saw fit to sell and dispose of its manufactured product.

VI.

Answering paragraph VI of said complaint, this defendant admits that it pays to said General Paper Company a commission upon all sales of paper made by said General Paper Company, as its agent, and defendant is advised that said General Paper Company likewise acts as sales agent for a large number of other mills, but just what mills said General Paper Company acts as sales agent for this defendant is not advised and does not know.

This defendant, further answering said paragraph VI of said bill of complaint, avers that it is not advised and does not know how said General Paper Company distributes the profits that it derives from the transaction of its business, but alleges on information and belief that such profits are divided among the stockholders of the company in proportion to the amount of stock which they hold in the same.
52

VII.

Answering paragraph VII of said bill of complaint, this defendant is not advised and does not know of the organization or of the existence of the Manufacturers Paper Company, excepting as it is advised by said bill of complaint; does not know where its place of business is, and does not know and is not advised as to any contracts that it has ever made with the General Paper Company, or any one else, or whether or not it is engaged in business at Chicago, or any other place; neither does this defendant know, nor is it advised, except by said bill of complaint, that said Manufacturers Paper Company entered into any combination or conspiracy with said

General Paper Company, or with any one else, or that it entered into any contract with said General Paper Company whereby it agreed not to sell paper in certain territory, or that it was ever a party to any combination or conspiracy in restraint of trade, and this defendant asks that said complainant be put to proof as to the allegations contained in paragraph VII of the bill of complaint.

VIII.

Answering paragraph VIII of said bill of complaint, this defendant denies that, by means of any combination or conspiracy, or otherwise, competition has been suppressed in the manufacture, sale or distribution of news print, manilla, fibre or other papers in the States mentioned in the bill of complaint, or in any other States, and this defendant further answering said bill of complaint expressly denies that the price of news print paper has been increased to the extent alleged in said bill of complaint. Defendant avers, on information and belief, that during the last few years there has been a slight increase in the price of news print paper; that there

53 have been times in recent years, as defendant is advised and believes, when such paper was sold below the actual cost of production; that within recent years the wood out of which said paper is being manufactured is becoming scarce, and the price thereof has been continually rising; that fuel and labor, and other ingredients, have been largely increased in price in the last few years; that, in consequence thereof, manufacturers of news print paper have been obliged to increase the prices of the same to some extent, but this defendant on information and belief alleges that at no time have such prices been increased so as to yield an unreasonable margin of profit on the moneys invested in manufacturing plants by the paper-makers in the States of Wisconsin, Michigan and Minnesota.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith it is by said bill charged, without this, that there is any other matter, cause or thing in the said complainant's bill of complaint contained, material or necessary for the defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of this defendant; and all which matters and things this defendant is ready and willing to aver, maintain and prove, as this honorable court shall direct; and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf sustained.

RHINELANDER PAPER COMPANY,
By A. W. BROWN, President.

Attest:

PAUL BROWNE, Secretary.

J. W. BARNES,

HARROLD HARRIS,

Solicitor- for the Defendant Rhineland Paper Co.

(Endorsed :) Answer of the Rhinelander Paper Company. Filed March 6th 1905 Henry D. Lang clerk By Louise B. Trott deputy.

54

EXHIBIT "B."

In the Circuit Court of the United States for the District of Minnesota,
Third Division.

THE UNITED STATES OF AMERICA, Complainant,
VS.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

55

On the petition and affidavit hereto attached,
It is ordered, That the clerk be and is hereby directed to issue *subpoenas duces tecum* as in said petition prayed.

WILLIS VAN DEVANTER,
Circuit Judge.

Dated this 17th day of July, 1905.

56

EXHIBIT "C."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Atlas Paper Company, Wolf River Paper and Fiber Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

57 United States Circuit Court, District of Minnesota, Third Division.

Civil Cause.

The President of the United States of America to B. F. Nelson, individually and as president of the Hennepin Paper Company, Minneapolis, Minnesota, Greeting:

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit:

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Hennepin Paper Company, or the said B. F. Nelson, president of the said Hennepin Paper Company.

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant Hennepin Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Hennepin Paper Company, since the 5th day of July, 1900, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July, 1900.

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Hennepin Paper Company, for any or all of its products so sold by or through the defendant General
58 Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of July, 1900, and the present time.

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Hennepin Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Hennepin Paper Company or the said B. F. Nelson, president of the said defendant Hennepin Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Hennepin Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of July, 1900, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Hennepin Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper,
59 and then and there to testify and the truth to say, in a certain matter of controversy in said court, depending between The United States of America complainant and General Paper Company *et al.* defendants, on the part of said complainant, hereof fail not.

Seal U. S. Circuit Court,
District of Minn., Third
Division.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17th day of July, A. D. 1905.

Issued at my office in the city of St. Paul, under the seal of said circuit court, the day and year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

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EXHIBIT "D."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Atlas Paper Company, Wolf River Paper and Fiber Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

61 United States Circuit Court, District of Minnesota, Third Division.

Civil Cause.

The President of the United States of America to A. C. Bossard, individually and as treasurer of the Itasca Paper Company, Grand Rapids, Minnesota, Greeting:

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit:

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Itasca Paper Company, or the said A. C. Bossard, treasurer of the said Itasca Paper Company;

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant Itasca Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Itasca Paper Company, since the 5th day of

February, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of February, 1902.

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Itasca Paper Company, for any or all of

its products so sold by or through the defendant General
62 Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of February, 1902, and the present time.

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Itasca Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of February, 1902, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Itasca Paper Company or the said A. C. Bossard, treasurer of the said defendant Itasca Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Itasca Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of February, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Itasca Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper, and then
and there to testify and the truth to say, in a certain matter

63 of controversy in said court, depending between The United States of America complainant and General Paper Company *et al.* defendants, on the part of said complainant, hereof fail not.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17th day of July, A. D. 1905.

Seal U. S. Circuit Court,
District of Minn., Third
Division.

Issued at my office in the city of St. Paul, under the seal of said circuit court, the day and year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

64

EXHIBIT "E."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Atlas Paper Company, Wolf River Paper and Fiber Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

65 United States Circuit Court, District of Minnesota, Third Division.

Civil Cause.

The President of the United States of America to C. I. McNair, individually and as general manager of the Northwest Paper Company, Cloquet, Minnesota, Greeting:

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and give evidence on the part of the petitioner in the above cause, and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit:

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Northwest Paper Company, or the said C. I. McNair, general manager of the said Northwest Paper Company.

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant Northwest Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Northwest Paper Company, since the 8th day of April, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 8th day of April, 1902.

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 8th day of April, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Northwest Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 8th day of April, 1902, and the present time:

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Northwest Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 8th day of April, 1902, and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair, general manager of the said defendant Northwest Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Northwest Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 8th day of April, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Northwest Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper, and then and there to testify and the truth to say, in a certain matter of controversy in said court, depending between The United States of America complainant and General Paper Company *et al.* defendants, on the part of said complainant, hereof fail not.

Seal U. S. Circuit Court,
District of Minn., Third
Division.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17th day of July, A. D. 1905.

Issued at my office in the city of St. Paul, under the seal of said circuit court, the day and year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

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EXHIBIT "F."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

VS.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhineland Paper Company, Defendants.

69

Petition for Order to Show Cause.

To the honorable the judges of the United States circuit court for the district of Minnesota, third division :

Your petitioner, the United States of America, petitioner in the above entitled cause, respectfully says :

First. That the above cause is a proceeding by way of petition brought in the United States circuit court for the district of Minnesota, by the United States of America, against the above named defendants, under and pursuant to the provisions of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies ;"

That in and by the petition on file in the said cause, it is among other things charged that the above named defendants did in or about the year 1900, in the manner and form mentioned in said petition, enter into an agreement, combination and conspiracy with each other to restrain the trade and commerce among the several States and to control, regulate and monopolize said trade and commerce in this: that the said defendants, save and excepting the General Paper Company, combined and conspired together to restrain and eliminate competition among themselves by and through the organization of a selling agent, known as the General Paper Company, another party defendant, which General Paper Company was by various contracts and agreements thereupon made, with the said other defendants, given full power and control over the product and the disposition thereof of the defendants so contracting with it.

Second. That said cause is at issue on petition, answers and replications; that the defendants in the said cause, as more particularly appears by their respective answers on file herein, have denied the making of or entering into any combination or conspiracy as alleged in the petition, and have denied that the defendants, other than the General Paper Company, have ever conferred upon the said defendant General Paper Company any power or control over their output or any power to fix or determine prices and terms of sale of such output.

Third. That a special examiner has been appointed by this court with full power and authority, according to the rules and practice in such cases made and provided, to hold hearings and receive testimony in behalf of either party, at such times and places within or without the district of Minnesota as he may designate and appoint; that pursuant to the appointment of said examiner and to the power and authority so vested in him, testimony has been taken before said examiner in the cities of Milwaukee, Wisconsin, and St. Paul, Minnesota, a complete transcript of which testimony, including all exhibits offered in connection therewith, is now on file in the office of the clerk of this court, duly certified by the said examiner; that the said transcript of testimony and exhibits is hereby referred to and made a part of this petition.

Fourth. That at the hearing before the said examiner in St. Paul, State of Minnesota, on the 24th day of July, 1905, as will more particularly appear from an inspection of the said transcript of testimony on file, the following named witnesses, among others, appeared in obedience to *subpoenas duces tecum* theretofore issued out of the office of the clerk of this court upon the order of the Honorable Willis Van Devanter, one of the judges thereof, namely: Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair;

That the said Benjamin F. Nelson was, pursuant to the said order for the issuance of *subpoenas duces tecum*, subpoenaed both individually and as president of the defendant Hennepin Paper Company, and was furthermore directed by said subpoena to have and bring with him, before the said examiner, at the time and place of said hearing, for use in evidence upon said hearing, the following books, papers and documents, to-wit:

(1st.) The account books, including the journals, ledgers and other books kept by or under the control of the defendant Hennepin Paper Company of the said Benjamin F. Nelson, president of the said Hennepin Paper Company—

71 (A.) Showing the amount and kinds or grades of paper manufactured by the said defendant Hennepin Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Hennepin Paper Company, since the 5th day of July, 1900, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July, 1900;

(B.) Showing the prices, amounts or credits received for such paper

from the defendant General Paper Company, between the 5th day of July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Hennepin Paper Company, for any or all its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of July, 1900, and the present time;

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Hennepin Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time.

(2nd.) All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Hennepin Paper Company or the said Benjamin F. Nelson, president of said defendant Hennepin Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Hennepin Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of July, 1900, equalized, or the profits arising from the sale of such paper distributed or ap-

72 portioned, as between the said defendant Hennepin Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

That the said Benjamin F. Nelson, when sworn as a witness, before the said examiner and examined by counsel for the petitioner, did, contrary to law and to the rules and practice of this court, refuse to answer certain questions put to him, and to comply with certain requests made upon him, such refusals on the part of said witness Nelson being particularly set forth and described in the schedule of refusals on the part of said witness Nelson hereto attached, referred to and made a part hereof.

That the said A. C. Bossard was, pursuant to the said order for the issuance of *subpoenas duces tecum*, subpoenaed both individually and as treasurer of Itasca Paper Company, and was furthermore directed by said subpoena to have and bring with him, before the said examiner, at the time and place of said hearing, for use in evidence upon the said hearing, the following books, papers and documents, to-wit:

(1st.) The account books, including the journals, ledgers and other books kept by or under the control of the defendant Itasca Paper

Company, or the said A. C. Bossard, treasurer of Itasca Paper Company—

(A.) Showing the amount and kinds of grade of paper manufactured by the said defendant Itasca Paper Company and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Itasca Paper Company, since the 5th day of February, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of February, 1902 ;

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Itasca Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products, or for similar products, between the 5th day of February, 1902, and the present time ;

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Itasca Paper Company, from or through the defendant General Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of February, 1902, and the present time.

(2nd.) All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Itasca Paper Company or the said A. C. Bossard, treasurer of said defendant Itasca Paper Company, showing the agreement, arrangement or understanding under and pursuant to which, and the manner in which, the prices and amounts realized by the said defendant Itasca Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th of February, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Itasca Paper Company and the other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

That the said A. C. Bossard, when sworn as a witness, before the said examiner, and examined by counsel for the petitioner, did, contrary to law and to the rules and practice of this court, refuse to answer certain questions put to him, and to comply with certain requests made upon him, such refusals on the part of the said witness Bossard being particularly set forth and described in the

schedule of refusals on the part of said witness Bossard hereto attached, referred to and made a part hereof.

74 That the said Clarence I McNair was, pursuant to the said order for the issuance of *subpoenas duces tecum*, subpoenaed both individually and as general manager of the defendant Northwest Paper Company, and was furthermore directed by the said subpoena to have and bring with him, before the said examiner, at the time and place of said hearing, for use in evidence upon said hearing, the following books, papers and documents, to-wit:

(1st.) The account books, including the journals, ledgers and other books kept by or under the control of the defendant Northwest Paper Company or the said Clarence I. McNair, general manager of the said Northwest Paper Company—

(A.) Showing the amount and kinds or grades of paper manufactured by the said defendant Northwest Paper Company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the defendant Northwest Paper Company, since the 8th day of April, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 8th day of April, 1902;

(B.) Showing the prices, amounts and credits received for such paper from the defendant General Paper Company, between the 8th day of April, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Northwest Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 8th day of April, 1902, and the present time;

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Northwest Paper Company, from or through the General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits, or otherwise, between the 8th day of April, 1902, and the present time.

75 (2nd.) All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair, general manager of the said defendant Northwest Paper Company, showing the agreement arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Northwest Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 8th day of April, 1902, equalized, or the profits arising from the sale of such paper distributed or apportioned, as between the said defendant Northwest Paper Com-

pany and other defendant companies manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or among all of the defendants manufacturing similar kinds or grades of paper.

That the said Clarence I. McNair, when sworn as a witness, before the said examiner, and examined by counsel for the petitioner, did, contrary to law and to the rules and practice of this court, refuse to answer certain questions put to him, and to comply with certain requests made upon him, such refusals on the part of said witness McNair being particularly set forth and described in the schedule of refusals on the part of said witness McNair hereto attached, referred to and made a part hereof.

Fifth. That all of the questions which the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair have refused to answer, as appears from the said respective schedules of refusals hereto attached, are, as your petitioner verily believes, proper, competent and material to be answered, and that all of the requests above referred to, with which the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair have refused and do still refuse to comply, as appears by the respective schedules of refusals hereto attached, are, as your petitioner verily believes, proper to be complied with, in order that all of the material facts relating

76 to the charge set out in the bill of complaint or petition may fully appear and be laid before this court for the proper determination of the said cause;

That the books of the defendant Hennepin Paper Company which the witness Benjamin F. Nelson has refused and still refuses to produce for inspection or for use in any way in evidence in the said cause, or in connection with his said examination, do, as your petitioner verily believes, contain entries and other information proving and tending to prove the averments of the bill of complaint or petition herein with respect to the combination and conspiracy among all of the defendants and the purpose of the organization of the defendant General Paper Company as charged in the said petition or bill of complaint; that the said books of the defendant Hennepin Paper Company, if produced for inspection and for use in evidence in said cause in connection with the testimony of the said witness Nelson will, as your petitioner verily believes, be found to contain entries and other information especially proving and tending to prove, when considered in conjunction with the books of the other defendant companies which your petitioner desires to have produced in evidence, the existence of a combination and conspiracy in restraint of trade as averred in the petition or bill of complaint, in this: that the prices received or amounts realized by the several defendants, other than the defendant General Paper Company, for the various kinds and grades of paper manufactured by them, are and have been, by and through the organization of the General Paper Company and since its said organization, equalized among the defendants manufacturing the various grades and kinds of paper

respectively; and, furthermore, that the said defendant General Paper Company has had and still has full power and control over the terms and conditions of sale of the product of the said defendant Hennepin Paper Company, after crediting the said defendant Hennepin Paper Company with a certain flat or arbitrary price or amount for its product, which price or amount has been and is uniform with that credited during the same period of time to other defendant companies manufacturing the same grades and kinds of paper; that the said books of the defendant Hennepin Paper Company, if produced for inspection and use in evidence as aforesaid, will, as

77 your petitioner verily believes, show, among other things, the participation by the said defendant Hennepin Paper Company in the profits arising out of the combination and conspiracy in restraint of trade set forth in the petition or bill of complaint, in that they will disclose the various amounts received from time to time by said defendant Hennepin Paper Company from and through the defendant General Paper Company by way of dividends, rebates or otherwise;

That the books of the defendant Itasca Paper Company which the witness A. C. Bossard has refused and still refuses to produce for inspection or for use in any way in evidence in the said cause or in connection with his said examination, do, as your petitioner verily believes, contain entries and other information proving and tending to prove the averments of the bill of complaint or petition herein, with respect to the combination and conspiracy among all of the defendants and the purpose of the organization of the defendant General Paper Company as charged in the said petition or bill of complaint; that the said books of the said defendant Itasca Paper Company, if produced for inspection and for use in evidence in said cause in connection with the testimony of said witness Bossard will, as your petitioner verily believes, be found to contain entries and other information especially proving and tending to prove, when considered in conjunction with the books of the other defendant companies which your petitioner desires to have produced in evidence, the existence of a combination and conspiracy in restraint of trade, as averred in the petition or bill of complaint herein, in this: that the prices received or amounts realized by the several defendants, other than the defendant General Paper Company, for the various kinds and grades of paper manufactured by them, are and have been, by and through the organization of the General Paper Company and since its said organization, equalized among the defendants manufacturing the various kinds and grades of paper respectively; and, furthermore, that the said defendant General Paper Company has had and still has full power and control over the terms and conditions of sale of the product of the said defendant Itasca Paper Company, after crediting the said Itasca Paper Company with a certain flat or arbitrary price or amount for its product, which price or

78 amount has been and is uniform with that credited during the same period of time to other defendant companies man-

ufacturing the same kinds or grades of paper; that the said books of the defendant Itasca Paper Company, if produced for inspection and use in evidence as aforesaid, will, as your petitioner verily believes, show, among other things, the participation by the said defendant Itasca Paper Company in the profits arising out of the combination and conspiracy in restraint of trade set forth in the petition or bill of complaint, in that they will disclose the various amounts received from time to time by said defendant Itasca Paper Company from and through the defendant General Paper Company by way of dividends, rebates or otherwise.

That the books of the defendant Northwest Paper Company which the witness Clarence I. McNair has refused and still refuses to produce for inspection or for use in any way in evidence in the said cause or in connection with his said examination, do, as your petitioner verily believes, contain entries and other information proving and tending to prove the averments of the bill of complaint or petition herein, with respect to the combination and conspiracy among all of the defendants and the purpose of the organization of the defendant General Paper Company as charged in the said petition or bill of complaint; that the said books of the defendant Northwest Paper Company, if produced for inspection and for use in evidence in said cause in connection with the testimony of the said witness McNair will, as your petitioner verily believes, be found to contain entries and other information especially proving and tending to prove, when considered in conjunction with the books of the other defendant companies which your petitioner desires to have produced in evidence, the existence of a combination and conspiracy in restraint of trade, as averred in the petition or bill of complaint herein, in this: that the prices received or amounts realized by the several defendants, other than the defendant General Paper Company, for the various grades and kinds of paper manufactured by them, are and have been, by and through the organization of the General Paper Company, and since its said organization, equalized among the defendants manufacturing the various grades and kinds of paper respectively; and, furthermore, that the said defendant General Paper Company has had and still has full power and control over the terms and conditions of sale of the product of

79 the said defendant Northwest Paper Company, after crediting the said defendant Northwest Paper Company with a certain flat or arbitrary price or amount for its product, which price or amount has been and is uniform with that credited, during the same period of time, to other defendant companies manufacturing the same grades and kinds of paper; that the said books of the defendant Northwest Paper Company, if produced for inspection and use in evidence as aforesaid, will, as your petitioner verily believes, show, among other things, the participation by the said defendant Northwest Paper Company in the profits arising out of the combination and conspiracy in restraint of trade set forth in the petition or bill of complaint, in that they will disclose the various amounts received

from time to time by said defendant Northwest Paper Company from and through the defendant General Paper Company by way of dividends, rebates, or otherwise.

Sixth. That in view of the persistent refusals on the part of the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair to answer the questions and to comply with the requests, as aforesaid, your petitioner has deemed it expedient and necessary, in order that all material and competent facts relating to the charge set out in the petition or bill of complaint may be laid before this court for the proper determination of the cause, to ask that the examination of the said witnesses before the said examiner be suspended, and to make application to the honorable the judges of this court for an order requiring the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair to appear before them and show cause why they should not be required to answer each and every of the said questions and to comply with each and every of the said requests, above referred to;

Wherefore, your petitioner respectfully prays that an order to show cause may issue out of this court, directing the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair and each of them, to be and appear before the said United States circuit court for the district of Minnesota, third division, at such time and place as may be by said order fixed, then and there to show cause why they should not answer the said questions, produce the said books, records and papers referred to, and comply with the said requests hereinbefore referred to; or, in the event of their continued refusals so to answer, produce and comply, why they should not stand committed for contempt of the said court; and for such other and further relief as to the court may seem just and proper.

And your petitioner will ever pray.

JAMES M. BECK,
FRANK B. KELLOGG,

Solicitors for Petitioner, The United States of America.

FRANK B. KELLOGG,

Special Assistant Attorney General of the United States.

STATE OF MINNESOTA, } ss:
County of Ramsey,

On this 15th day of September, 1905, personally appeared before me Frank B. Kellogg, to me known to be one of the solicitors in the above entitled cause, and, being first duly sworn, the said Frank B. Kellogg said that he has read the foregoing petition, and that the facts therein stated are true.

[NOTARIAL SEAL.]

GUY CHASE,
Notary Public, Ramsey County, Minnesota.

Schedule of Refusals.

(References are to the Typewritten Testimony.)

Witness Benjamin F. Nelson.

1. Refusal to answer the sixth question on page 671 of the testimony.
2. Refusal to answer the last question on page 671 of the testimony.
3. Refusal to answer the second question on page 672 of the testimony.
4. Refusal to answer the fourth question on page 672 of the testimony.
5. Refusal to answer the sixth question on page 672 of the testimony.
6. Refusal to answer the question beginning with the last line on page 672 of the testimony.
7. Refusal to answer the fifth complete question on page 673 of the testimony.
8. Refusal to answer the last question on page 673 of the testimony.
9. Refusal to answer the first question on page 674 of the testimony.
10. Refusal to answer the third question on page 674 of the testimony.
11. Refusal to answer the last question on page 674 of the testimony.
12. Refusal to answer the first question on page 675 of the testimony.
13. Refusal to answer the second question on page 675 of the testimony.
14. Refusal to answer the third question on page 675 of the testimony.
15. Refusal to answer the fourth question on page 675 of the testimony.
16. Refusal to answer the second question on page 676 of the testimony.
17. Refusal to answer the third question on page 676 of the testimony.
18. Refusal to answer the question beginning with the last line on page 676 of the testimony.
19. Refusal to answer the first complete question on page 677 of the testimony.
20. Refusal to answer the second question on page 677 of the testimony.
21. Refusal to answer the third question on page 677 of the testimony.

22. Refusal to answer the first question on page 678 of the testimony.
23. Refusal to answer the second question on page 678 of the testimony.
24. Refusal to answer the fifth question on page 678 of the testimony.
25. Refusal to answer the last question on page 678 of the testimony.
- 82 26. Refusal to answer the first question on page 679 of the testimony.
27. Refusal to answer the third question on page 679 of the testimony.
28. Refusal to answer the fifth question on page 679 of the testimony.
29. Refusal to answer the last question on page 681 of the testimony.
30. Refusal to answer the fourth question on page 682 of the testimony.
31. Refusal to answer the sixth question beginning on page 682 of the testimony.
32. Refusal to answer the second complete question on page 683 of the testimony.
33. Refusal to answer the third complete question on page 683 of the testimony.
34. Refusal to answer the third question on page 686 of the testimony.
35. Refusal to answer the fifth question beginning on page 686 of the testimony.
36. Refusal to answer the question beginning with the last line on page 688 of the testimony.
37. Refusal to answer the first complete question on page 689 of the testimony.
38. Refusal to answer the second complete question on page 689 of the testimony.
39. Refusal to answer the last question beginning on page 689 of the testimony.
40. Refusal to answer the first complete question on page 690 of the testimony.
41. Refusal to answer the second complete question on page 690 of the testimony.
42. Refusal to answer the third complete question on page 690 of the testimony.
43. Refusal to answer the fourth complete question on page 690 of the testimony.
44. Refusal to answer the fifth question on page 691 of the testimony.
45. Refusal to produce the books requested in the last question on page 691 of the testimony.

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Witness A. C. Bossard.

1. Refusal to answer the sixth question on page 696 of the testimony.
2. Refusal to answer the first complete question on page 697 of the testimony.
3. Refusal to answer the second complete question on page 697 of the testimony.
4. Refusal to answer the last question beginning on page 697 of the testimony.
5. Refusal to answer the third complete question on page 698 of the testimony.
6. Refusal to answer the fourth complete question on page 698 of the testimony.
7. Refusal to answer the second question on page 699 of the testimony.
8. Refusal to answer the third question on page 699 of the testimony.
9. Refusal to answer the fifth question on page 699 of the testimony.
10. Refusal to answer the sixth question on page 699 of the testimony.
11. Refusal to answer the first complete question on page 700 of the testimony.
12. Refusal to answer the second complete question on page 700 of the testimony.
13. Refusal to answer the third complete question on page 700 of the testimony.
14. Refusal to answer the fifth complete question on page 700 of the testimony.
15. Refusal to answer the sixth complete question on page 700 of the testimony.
16. Refusal to answer the fourth question on page 701 of the testimony.
17. Refusal to answer the fifth question on page 701 of the testimony.
18. Refusal to answer the last question beginning on page 701 of the testimony.
19. Refusal to answer the first complete question on page 702 of the testimony.
20. Refusal to answer the third complete question on page 702 of the testimony.
21. Refusal to answer the fourth complete question on page 702 of the testimony.
22. Refusal to answer the fifth complete question on page 702 of the testimony.
23. Refusal to answer the last question beginning on page 702 of the testimony.

24. Refusal to answer the first complete question on page 703 of the testimony.

25. Refusal to produce the books requested in the fourth question on page 704 of the testimony.

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Witness Clarence I. McNair.

1. Refusal to answer the eighth complete question on page 710 of the testimony.

2. Refusal to answer the fifth question on page 711 of the testimony.

3. Refusal to answer the sixth question on page 711 of the testimony.

4. Refusal to answer the seventh question on page 711 of the testimony.

5. Refusal to answer the first complete question on page 712 of the testimony.

6. Refusal to answer the second complete question on page 712 of the testimony.

7. Refusal to answer the first question on page 713 of the testimony.

8. Refusal to answer the second question on page 713 of the testimony.

9. Refusal to answer the third question on page 713 of the testimony.

10. Refusal to answer the third question on page 714 of the testimony.

11. Refusal to answer the fourth question on page 714 of the testimony.

12. Refusal to answer the last question beginning on page 714 of the testimony.

13. Refusal to answer the first complete question on page 715 of the testimony.

14. Refusal to answer the second complete question on page 715 of the testimony.

15. Refusal to answer the last question on page 715 of the testimony.

16. Refusal to answer the first question on page 716 of the testimony.

17. Refusal to answer the sixth question on page 716 of the testimony.

18. Refusal to answer the last question beginning on page 716 of the testimony.

19. Refusal to answer the first complete question on page 717 of the testimony.

20. Refusal to answer the second complete question on page 717 of the testimony.

21. Refusal to answer the last question beginning on page 718 of the testimony.

22. Refusal to answer the second complete question on page 719 of the testimony.
23. Refusal to answer the third complete question on page 719 of the testimony.
24. Refusal to answer the last question beginning on page 719 of the testimony.
25. Refusal to answer the first complete question on page 720 of the testimony.
26. Refusal to answer the last question on page 720 of the testimony.
27. Refusal to produce books as requested on page 721 of the testimony.
28. Refusal to answer the question appearing in the tenth and eleventh lines on page 721 of the testimony.
- 85 29. Refusal to answer the question contained in the fifteenth and sixteenth lines on page 721 of the testimony.
30. Refusal to answer the last question on page 721 of the testimony.
31. Refusal to answer the first question on page 722 of the testimony.
32. Refusal to answer the second question on page 722 of the testimony.
33. Refusal to answer the first question on page 723 of the testimony.
34. Refusal to answer the fifth question on page 723 of the testimony.
35. Refusal to answer the last question on page 723 of the testimony.
36. Refusal to comply with the request contained in the first question on page 724 of the testimony.
37. Refusal to answer the second question on page 724 of the testimony.
38. Refusal to answer the second question on page 730 of the testimony.
39. Refusal to answer the last question on page 730 of the testimony.
40. Refusal to answer the second question on page 731 of the testimony.
41. Refusal to answer the third question on page 731 of the testimony.
42. Refusal to answer the fourth question on page 731 of the testimony.
43. Refusal to answer the fifth question on page 731 of the testimony.
44. Refusal to answer the first question on page 732 of the testimony.
45. Refusal to answer the fourth question on page 732 of the testimony.

46. Refusal to answer the first question on page 733 of the testimony.
47. Refusal to answer the second question on page 733 of the testimony.
48. Refusal to answer the third question on page 733 of the testimony.
49. Refusal to answer the last question on page 733 of the testimony.

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EXHIBIT "G."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

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Order to Show Cause.

On the petition hereto attached, and it appearing to the court that the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, in said petition mentioned, were heretofore duly served with *subpoenas duces tecum* issued out of this court requiring them and each of them to appear before said examiner in said cause, as in said petition stated, it is

Ordered, that the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair be and appear before the Honorable Willis Van Devanter, judge of the United States circuit court for the District of Minnesota, third division, at the United States circuit court room in the city of St. Paul, State of Minnesota, on the 25th day of September, 1905, at ten o'clock in the forenoon of said day, then and there to show cause why they and each of them should not make full and proper answer to each of the questions referred to in said petition and more particularly in the schedules thereunto annexed, and also fully comply with each and every of the requests

mentioned in said petition and more particularly set forth in the schedules thereunto annexed, and also produce for the purposes of their said examination, for inspection by counsel for the petitioner and for the purpose of being offered in evidence in said cause, the books and papers referred to in the said petition and schedule; and abide by such other and further order as this court may make.

It is further ordered, that a copy of this order, with the said petition and schedule thereto attached, be personally served upon the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and upon their attorneys Winkler, Flanders, Smith, Bottum, & Fawcett and Defrees, Brace & Ritter, on or before the 21st day of September, 1905.

WILLIS VAN DEVANTER,
United States Circuit Judge.

Dated this 15th day of September, 1905.

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EXHIBIT "H."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Delis Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

89 In the matter of proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard, and Clarence McNair to answer questions and produce books and documents.

The above entitled matter, having come before the court on the petition of the above named petitioner, The United States of America, and the order to show cause issued in accordance with the prayer of said petition directing the witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, mentioned in said petition, to appear and show cause why they should not answer certain questions, com-

ply with certain requests, and produce certain books and papers, as particularly described and set forth in the said petition and schedule of refusals thereunto annexed, and on the returns filed by the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and the above named defendants Hennepin Paper Company, Itasca Paper Company and Northwest Paper Company, to said petition and order to show cause, and the said witnesses Nelson, Bossard and McNair and the said defendants Hennepin Paper Company, Itasca Paper Company and Northwest Paper Company appearing by their counsel Messrs. Winkler, Flanders, Smith, Bottum & Fawcett and Messrs. Defrees, Brace & Ritter, and the said petitioner appearing by its counsel Messrs. Frank B. Kellogg and Robert E. Olds,

Now therefore, after hearing counsel, it is ordered, adjudged and decreed: that the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair be and they are hereby each of them directed to appear before Robert S. Taylor, special examiner in the above entitled action, at nine o'clock in the forenoon of October 12, 1905, in the United States district court room in the

90 city of St. Paul, State of Minnesota, and they are each of them directed then and there to answer each and every of the questions put to them respectively by the counsel for said petitioner, The United States of America, as set forth in the petition herein and the schedule thereunto annexed; and the said witnesses are severally and respectively directed to produce before said examiner, at such time and place, the books and papers particularly specified in the *subpoenas duces tecum* heretofore served upon them and mentioned in said petition and the schedule of refusals thereto annexed, and to permit petitioner's counsel, at such time and place, and at any adjournment of said hearing before said examiner, to examine and introduce in evidence such portions of such books and papers as show or contain the particular matters and things specified in such *subpoenas*.

It is further ordered that in the event the said witnesses, or either of them, shall refuse to comply with this order, either in whole or in part, the petitioner shall be at liberty, by appropriate petition, to inform the court of such refusal in order that such proceedings may be had as may be proper or necessary to the investigation and punishment of the contempt involved in such refusal and to the further enforcement of this order.

And the said witnesses Benjamin F. Nelson, A. C. Bossard, Clarence I. McNair, and the said defendants Hennepin Paper Company, Itasca Paper Company and Northwest Paper Company, do now severally and jointly except to this order and every part thereof, and do now severally and jointly pray that an appeal herefrom be allowed to the Supreme Court of the United States.

And the court being of opinion that this order does not constitute a final decision, does now refuse to allow such an appeal on the part

of either of said witnesses or either of said defendants, or on the part of all of them jointly, to which ruling the said witnesses and the said defendants do now severally and jointly except.

Dated October 7, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

(Endorsed :) Order compelling the witnesses Nelson, Bossard & McNair to answer &c.

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EXHIBIT "I."

In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company, Defendants.

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Report of Robert S. Taylor, Special Examiner.

I, Robert S. Taylor, special examiner appointed by this court in the above entitled cause, do hereby certify and report to the court as follows:

Pursuant to the order of this court, made and entered on the 7th day of October, 1905, the following named witnesses hereto subpoenaed and partially examined in the said cause, duly reappeared before me as special examiner therein, at 9 o'clock in the forenoon of Thursday, the 12th day of October, 1905:

Benjamin F. Nelson, president of the defendant Hennepin Paper Company; A. C. Bossard, treasurer of the defendant Itasca Paper Company; and Clarence I. McNair, general manager of the defendant Northwest Paper Company.

The examination of the witness Benjamin F. Nelson was forth-

with resumed by counsel for the petitioner, The United States of America, and the said witness Nelson, upon being questioned by said counsel for the petitioner, did, as to each and every of the questions and each and every of the requests to produce evidence which he had hitherto refused to answer or comply with at his former examination before me as special examiner, on the 24th day of July, 1905, and which he was directed by the said order of this court made and entered on the 7th day of October, 1905, to answer and comply with, refuse, and does still refuse, to answer and comply with the same; whereupon the examination of the said witness Nelson was, at the request of the petitioner The United States of America, again suspended in order that the fact of such continued refusal to testify and to produce evidence might be reported to this court for such action as this court might take for the further enforcement of its said order.

The examination of the witness A. C. Bossard was resumed by counsel for the petitioner, The United States of America, and the said witness Bossard, upon being questioned by said counsel
94 for the petitioner, did, as to each and every of the questions and each and every of the requests to produce evidence which he had hitherto refused to answer or comply with at his former examination before me as special examiner, on the 24th day of July, 1905, and which he was directed by the said order of this court made and entered on the 7th day of October, 1905, to answer and comply with, refuse, and does still refuse, to answer and comply with the same; whereupon the examination of the said witness Bossard was, at the request of the petitioner The United States of America, again suspended in order that the fact of such continued refusal to testify and to produce evidence might be reported to this court for such action as the court might take for the further enforcement of its said order.

The examination of the witness Clarence I. McNair was resumed by counsel for the petitioner, The United States of America, and the said witness McNair, upon being questioned by said counsel for the petitioner, did, as to each and every of the questions and each and every of the requests to produce evidence which he had hitherto refused to answer or comply with at his former examination before me as special examiner, on the 24th day of July, 1905, and which he was directed by the said order of this court made and entered on the 7th day of October, 1905, to answer and comply with, refuse, and does still refuse, to answer and comply with the same, save and excepting that the fifth question appearing on page 711 of the typewritten testimony on file, being the second refusal scheduled as to the witness McNair, and the first, second and third questions appearing on page 733 of the typewritten testimony, being the 46th, 47th and 48th refusals, respectively, scheduled as to the said witness McNair, were not repeated to the said witness; whereupon the examination of the said witness Nelson was, at the request of the petitioner The United States of America, again suspended in order that

the fact of such continued refusal to testify and to produce evidence might be reported to this court for such action as the court might take for the further enforcement of its said order.

Dated this 12th day of October, 1905.

ROBT S. TAYLOR,
Special Examiner.

95 (Endorsed :) *In re* application to have witnesses adjudged in contempt. Filed October 12th, 1905. Henry D. Lang, clerk.

Thereafter and on the same day the following answer of the witness Benjamin F. Nelson was filed of record in said cause, in words and figures following, viz:

96 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
BENJAMIN F. NELSON, Respondent. }

Now comes Benjamin F. Nelson and answering the charges of contempt of court made by the complainants above named in their petition filed in this court on this 12th day of October, A. D. 1905, alleges and shows unto the court as follows:

That this respondent is a director and the president of Hennepin Paper Company, one of the defendants in the cause mentioned in said petition and the papers and proceedings therein referred to wherein The United States of America are the complainants and General Paper Company and others are defendants, and is also the owner and holder of stock in said Hennepin Paper Company of the par value of forty-nine thousand dollars (\$49,000.00,) and that the books and papers referred to in said petition and in relation to which this respondent is charged with contempt are the books and papers of said Hennepin Paper Company and not of this respondent, and are subject to the control of said Hennepin Paper Company and not of this respondent;

That this respondent is also a director of General Paper Company, another of the defendants in the above mentioned cause, and the owner and holder of stock in said General Paper Company of the par value of two thousand two hundred and fifty dollars (\$2250.00);

97 that all the matters concerning which the questions referred to in said petition were asked and for refusing to answer which this respondent is charged with contempt of court, as stated in said petition, came to this respondent's knowledge exclusively as president and a director of said Hennepin Paper Company, or as a director of said General Paper Company in the conduct of matters

entrusted to him as such director or president, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or officer; that said Hennepin Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for said complainant for the purpose of being offered in evidence in said cause; and that said Hennepin Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to said questions and to his being required to answer the same for the reasons hereinafter set forth, and upon the advice of counsel this respondent has refused to submit said books and papers to counsel for complainants for inspection and introduction in evidence in said cause or to answer said questions. Said objections and refusals are based upon the following reasons:

1. That the materiality of said books and papers and of the questions aforesaid in the cause mentioned in said petition has not been established so as to authorize a court of equity to order the inspection, production and introduction in evidence of said books and papers or the answering of said questions, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain and the answers called for by said questions would disclose matters of importance relating to the business of said Hennepin Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or papers or to answer any of said questions except on a proper showing that the same are material to said cause to establish some issue therein, and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainants in instituting said cause and in demanding the inspection, production and introduction in evidence of said books and papers and in asking the questions aforesaid is to establish and to compel said Hennepin Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainants evidence tending to establish that said Hennepin Paper Company and said General Paper Company have been guilty of certain violations of the act of Congress entitled "An act to protect trade and commerce against unlawful restraints and Monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Hennepin Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Hennepin Paper Company or said General Paper Company, through this respondent or otherwise, of said books and papers for inspection and introduction in evidence in said cause, or to compel

said defendants, or either of them, through this respondent, to answer said questions, would be contrary to the provisions of the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Hennepin Paper Company complained of by said complainants in their said original petition or bill of complaint in said cause, and which said complainants are
99 endeavoring to establish in said cause, would, if committed by said Hennepin Paper Company, involve violations of the laws of the State of Minnesota and would subject said Hennepin Paper Company to forfeiture of its charter and to fines and other penalties under said laws; that to compel said Hennepin Paper Company, through this respondent as one of its officers or otherwise, for the purposes aforesaid to produce said books and papers for inspection and introduction in evidence in said cause or to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and to fines and other penalties as aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainants in instituting said cause and in demanding the production, inspection and introduction in evidence of the books and papers aforesaid and in asking the questions aforesaid is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying out of, and operation under, certain agency contracts and agreements existing between it and said Hennepin Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company, whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Hennepin Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned would result in great injury, damage and loss, both to said General Paper Company and to said Hennepin Paper Company and to this respondent as a stockholder in each of said companies; and that to
100 compel the answering of said questions or the production of said books and papers for inspection and introduction as evidence in said cause for the purposes aforesaid by said Hennepin

Paper Company or said General Paper Company, or either of them, through this respondent as such director or officer or otherwise, would be contrary not only to the provisions of said fourth and fifth amendment- to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering this respondent alleges that he ought not to be required to answer the questions or produce for inspection by counsel for the complainants or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said petition, not only for the reasons hereinabove set forth but also for the following reasons, that is to say:

1. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant- evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said requests or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

101 2. That the alleged acts of said Hennepin Paper Company and of said General Paper Company complained of by the complainants in their said original petition or bill of complaint in said cause, and which said complainants are endeavoring to establish in said cause, would, if committed by said defendant companies, involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to fine and imprisonment and other penalties and forfeitures under said laws, and that to compel him to answer the questions or to produce for inspection or for the purpose of being offered in evidence in said cause the books and papers aforesaid would be to compel him to furnish evidence tending to establish that he has been guilty of such violations of the laws of the State of Minnesota and to subject him to fine and imprisonment and other penalties and forfeitures as aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants

and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainants evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to loss or detriment in the nature of a penalty or forfeiture, in that the said Hennepin Paper Company, of which this respondent is a stockholder as aforesaid, will be subjected under the laws of the State of Minnesota to fines and other penalties, including the forfeiture of its charter, resulting in the virtual forfeiture of the stock of this respondent in said defendant company, and in the loss and forfeiture to a large extent of the value of the interest of this respondent in said corporation, and in that the contracts made through

102 said General Paper Company as its sales agent by said Hennepin Paper Company under and pursuant to the agency contracts herein referred to between said Hennepin Paper Company and said General Paper Company will be virtually annulled and the property rights of said Hennepin Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Hennepin Paper Company, all of which, as this respondent is advised and believes, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and produce for inspection and for the purpose of being offered in evidence the books and papers above referred to and which he has declined to answer or produce, if material to said cause, would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the United States, and also contrary to the well established rule of the common law and of equity jurisprudence, that no person shall be compelled to discover any fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

And further answering this respondent says that he is advised and believes, and so charges and avers, that the order of this court entered on the 7th day of October, 1905, requiring him to testify as set forth in said petition and to produce the books and papers therein mentioned and described is void for want of power

103 and jurisdiction in said court to enter the same.

BENJAMIN F. NELSON.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWCETT,
DEFREES, BRACE & RITTER,
Solicitors for Respondent.

STATE OF MINNESOTA, }
County of Ramsey, } ss :

Benjamin F. Nelson being first duly sworn, deposes and says: that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof, and that the same is true to his own knowledge, except as to matters therein set forth to be on information and belief, and as to those he believes them to be true.

BENJAMIN F. NELSON.

Subscribed and sworn to before me this 12th day of October, 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,
Notary Public, Ramsey County, Minnesota.

(Endorsed :) Answer B. F. Nelson. Filed October 12th, 1905.
Henry D. Lang, clerk.

104 Thereafter and on the same day the answer of the witness Anselm C. Bossard, was filed of record in said cause, in words and figures, following viz :

105 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
ANSELM C. BOSSARD, Respondent. }

Now comes Anselm C. Bossard and answering the charges of contempt of court made by the complainants above named in their petition filed in this court on this 12th day of October, A. D. 1905, alleges and shows unto the court as follows:

That this respondent is a director and the manager and treasurer of Itasca Paper Company, one of the defendants in the cause mentioned in said petition and the papers and proceedings therein referred to wherein The United States of America are the complainants and General Paper Company and others are defendants, and is also the owner and holder of stock in said Itasca Paper Company of the par value of forty thousand dollars (\$40,000.00), and that the books and papers referred to in said petition and in relation to which this respondent is charged with contempt are the books and papers of said Itasca Paper Company and not of this respondent, and are subject to the control of said Itasca Paper Company and not of this respondent;

That this respondent is also a director of General Paper Company, another of the defendants in the above mentioned cause, and

the owner and holder of stock in said General Paper Company of the par value of three thousand dollars (\$3,000.00); that all the matters concerning which the questions referred to in said
106 petition were asked and for refusing to answer which this respondent is charged with contempt of court, as stated in said petition, came to this respondent's knowledge exclusively as such manager, treasurer and director of said Itasca Paper Company, or as a director of said General Paper Company in the conduct of matters entrusted to him as such director or officer, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or officer; that said Itasca Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for said complainant for the purpose of being offered in evidence in said cause; and that said Itasca Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to said questions and to his being required to answer the same for the reasons hereinafter set forth; and upon the advice of counsel this respondent has refused to submit said books and papers to counsel for complainants for inspection and introduction in evidence in said cause or to answer said questions. Said objections and refusals are based upon the following reasons:

1. That the materiality of said books and papers and of the questions aforesaid in the cause mentioned in said petition has not been established so as to authorize a court of equity to order the inspection, production and introduction in evidence of said books and papers or the answering of said questions, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain and the answers called for by said questions would disclose matters of importance relating to the business of said Itasca Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or
papers or to answer any of said questions except on a proper
107 showing that the same are material to said cause to establish some issue therein, and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainants in instituting said cause and in demanding the inspection, production and introduction in evidence of said books and papers and in asking the questions aforesaid is to establish and to compel said Itasca Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainants evidence tending to establish that said Itasca Paper Company and said General Paper Company have been guilty of certain violations of the act of Congress entitled: "An act to protect

trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Itasca Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Itasca Paper Company or said General Paper Company, through this respondent or otherwise, of said books, and papers for inspection and introduction in evidence in said cause, or to compel said defendants, or either of them, through this respondent, to answer said questions, would be contrary to the provisions of the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Itasca Paper Company complained of by said complainants in their said original petition or bill of complaint in said cause, and which said complainants are endeavoring to establish in said cause, would, if committed by said Itasca Paper Company, involve violations of the laws of the State of Minnesota and would subject said Itasca Paper Company to forfeiture of its charter and to fines and other penalties under said laws; that to compel said Itasca Paper Company, through this respondent as one of its officers or otherwise, for the purposes aforesaid to produce said books and papers for inspection and introduction in evidence in said cause or to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and to fines and other penalties as aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainants in instituting said cause and in demanding the production, inspection and introduction in evidence of the books and papers aforesaid and in asking the questions aforesaid is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying out of, and operation under, certain agency contracts and agreements existing between it and said Itasca Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company, whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Itasca Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned would

result in great injury, damage and loss, both to said General Paper Company and to said Itasca Paper Company and to this respondent as a stockholder in each of said companies; and that to compel the answering of said questions or the production of said
 109 books and papers for inspection and introduction as evidence in said cause for the purpose aforesaid by said Itasca Paper Company or said General Paper Company, or either of them, through this respondent as such director or officer or otherwise, would be contrary not only to the provisions of said fourth and fifth amendment to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering this respondent alleges that he ought not to be required to answer the questions or produce for inspection by counsel for the complainants or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said petition, not only for the reasons hereinabove set forth but also for the following reasons, that is to say:

1. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said request or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

110 2. That the alleged acts of said Itasca Paper Company and of said General Paper Company complained of by the complainants in their said original petition or bill of complaint in said cause, and which said complainants are endeavoring to establish in said cause, would, if committed by said defendant companies, involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to fine and imprisonment and other penalties and forfeitures under said laws, and that to compel him to answer the questions or to produce for inspection or for the purpose of being offered in evidence in said cause the books and papers aforesaid would be to compel him to furnish evidence tending to establish that he has been guilty of such violations of the laws of the State of Minnesota and to subject him to fine and imprisonment and other penalties and forfeitures as aforesaid, contrary

to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainants evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to loss or detriment in the nature of a penalty or forfeiture, in that the said Itasca Paper Company, of which this respondent is a stockholder, as aforesaid, will be subjected under the laws of the State of Minnesota to fines and other penalties, including the forfeiture of its charter, resulting in the virtual forfeiture of the stock of this respondent in said defendant company, and in the loss and forfeiture to a large extent of the value of the interest of this respondent in said corporation, and in that the contracts made through
 111 said General Paper Company as its sales agent by said Itasca Paper Company under and pursuant to the agency contracts herein referred to between said Itasca Paper Company and said General Paper Company will be virtually annulled and the property rights of said Itasca Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Itasca Paper Company, all of which, as this respondent is advised and believes, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and produce for inspection and for the purpose of being offered in evidence the books and papers above referred to and which he has declined to answer or produce, if material to said cause, would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the United States, and also contrary to the well established rule of the common law of equity jurisprudence, that no person shall be compelled to discover any fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

And further answering this respondent says that he is advised and believes, and so charges and avers, that the order of this court entered on the 7th day of October, 1905, requiring him to testify as set forth in said petition and to produce the books and papers therein mentioned and described is void for want of power and
 112 jurisdiction in said court to enter the same.

ANSELM C. BOSSARD.

WINKLER, FLANDERS, SMITH, BOTTUM
 & FAWSETT,
 DEFREES, BRACE & RITTER,
 Solicitors for Respondent.

STATE OF MINNESOTA, } ss :
 County of Ramsey, }

Anselm C. Bossard being first duly sworn, deposes and says: that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof, and that the same is true to his own knowledge, except as to matters therein set forth to be on information and belief, and as to those he believes them to be true.

ANSELM C. BOSSARD.

Subscribed and sworn to before me this 12th day of October, 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,
 Notary Public, Ramsey County, Minnesota.

(Endorsed:) Answer A. C. Bossard. Filed October 12th, 1905.
 Henry D. Lang, clerk.

113 Thereafter and on the same day the answer of Clarence I. McNair one of the witnesses, was filed of record in said cause, in words and figures following, viz:

114 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
 vs.
 CLARENCE I. MCNAIR, Respondent. }

Now comes Clarence I. McNair and answering the charges of contempt of court made by the complainants above named in their petition filed in this court on this 12th day of October, A. D. 1905, alleges and shows unto the court as follows:

That this respondent is a director and the general manager of Northwest Paper Company, one of the defendants in the cause mentioned in said petition and the papers and proceedings therein referred to wherein The United States of America are the complainants and General Paper Company and others are defendants, and is also the owner and holder of stock in said Northwest Paper Company of the par value of twenty-five hundred dollars (\$2500.00), and that the books and papers referred to in said petition and in relation to which this respondent is charged with contempt are the books and papers of said Northwest Paper Company and not of this respondent, and are subject to the control of said Northwest Paper Company and not of this respondent;

That this respondent is also a director of General Paper Company, another of the defendants in the above mentioned cause, and

the owner and holder of stock in said General Paper Company of the par value of six thousand dollars (\$6000.00); that all the matters concerning which the questions referred to in said petition were asked and for refusing to answer which this respondent is charged with contempt of court, as stated in said petition, came to this respondent's knowledge exclusively as such general manager and director of said Northwest Paper Company, or as a director of said General Paper Company in the conduct of matters entrusted to him as such director or general manager, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or general manager; that said Northwest Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for said complainant for the purpose of being offered in evidence in said cause; and that said Northwest Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to said questions and to his being required to answer the same for the reasons hereinafter set forth; and upon the advice of counsel this respondent has refused to submit said books and papers to counsel for complainants for inspection and introduction in evidence in said cause or to answer said questions. Said objections and refusals are based upon the following reasons:

1. That the materiality of said books and papers and of the questions aforesaid in the cause mentioned in said petition has not been established so as to authorize a court of equity to order the inspection, production and introduction in evidence of said books and papers or the answering of said questions, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain and the answers called for by said questions would disclose matters of importance relating to the business of said Northwest Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or papers or to answer any of said questions except on a proper showing that the same are material to said cause to establish some issue therein, and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainants in instituting said cause and in demanding the inspection, production and introduction in evidence of said books and papers and in asking the questions aforesaid is to establish and to compel said Northwest Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainants evidence tending to establish that said Northwest Paper Company and said General Paper Company have been

guilty of certain violations of the act of Congress entitled: "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Northwest Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Northwest Paper Company or said General Paper Company, through this respondent or otherwise, of said books and papers for inspection and introduction in evidence in said cause, or to compel said defendants, or either of them, through this respondent, to answer said questions, would be contrary to the provisions of the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Northwest Paper Company complained of by said complainants in their said original petition or bill of complaint in said cause, and which said complainants
117 are endeavoring to establish in said cause, would, if committed by said Northwest Paper Company involve violations of the laws of the State of Minnesota and would subject said Northwest Paper Company, which is a corporation organized under the laws of West Virginia, to forfeiture of its license to do business in the State of Minnesota, where its property and business are located, and to fines and other penalties under said laws; that to compel said Northwest Paper Company, through this respondent as one of its officers or otherwise, for the purposes aforesaid to produce said books and papers for inspection and introduction in evidence in said cause or to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its license to do business in said State of Minnesota and to fines and other penalties as aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainants in instituting said cause and in demanding the production, inspection and introduction in evidence of the books and papers aforesaid and in asking the questions aforesaid is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying out of, and operation under, certain agency contracts and agreements existing between it and said Northwest Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company, whose entire business

practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Northwest Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned

118 would result in great injury, damage and loss, both to said General Paper Company and to said Northwest Paper Company and to this respondent as a stockholder in each of said companies; and that to compel the answering of said questions or the production of said books and papers for inspection and introduction as evidence in said cause for the purposes aforesaid by said Northwest Paper Company or said General Paper Company, or either of them, through this respondent as such director or officer or otherwise, would be contrary not only to the provisions of said fourth and fifth amendment to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering this respondent alleges that he ought not to be required to answer the question or produce for inspection by counsel for the complainants or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said petition, not only for the reasons hereinabove set forth but also for the following reasons, that is to say:

1. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said requests or to produce for inspection or for the purpose of being offered
119 in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

2. That the alleged acts of said Northwest Paper Company and of said General Paper Company complained of by the complainants in their said original petition or bill of complaint in said cause, and which said complainants are endeavoring to establish in said cause, would, if committed by said defendant companies, involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to fine and imprisonment and other penalties

and forfeitures under said laws, and that to compel him to answer the questions or to produce for inspection or for the purpose of being offered in evidence in said cause the books and papers aforesaid would be to compel him to furnish evidence tending to establish that he has been guilty of such violations of the laws of the State of Minnesota and to subject him to fine and imprisonment and other penalties and forfeitures as aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainants in instituting said cause and in seeking to require this respondent to answer the questions and produce for inspection by counsel for the complainants and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainants evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to loss or detriment in the nature of a penalty or forfeiture, in that the said Northwest Paper Company, of which this respondent is a stockholder, as aforesaid, will be subjected under the laws of the State of Minnesota to fines and other penalties, including the forfeiture of its license to do business in said State, resulting in the virtual forfeiture of the stock of this respondent in said defendant company

120 and in the loss and forfeiture to a large extent of the value of the interest of this respondent in said corporation, and in that the contracts made through said General Paper Company as its sales agent by said Northwest Paper Company under and pursuant to the agency contracts herein referred to between said Northwest Paper Company and said General Paper Company will be virtually annulled and the property rights of said Northwest Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Northwest Paper Company, all of which, as this respondent is advised and believes, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and produce for inspection and for the purpose of being offered in evidence the books and papers above referred to and which he has declined to answer or produce, if material to said cause, would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the United States, and also contrary to the well established rule of the common law and of equity jurisprudence, that no person shall be compelled to discover any fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

And further answering this respondent says that he is advised and believes, and so charges and avers, that the order of this court

entered on the 7th day of October, 1905, requiring him to testify as set forth in said petition and to produce the books and papers therein mentioned and described is void for want of power
121 and jurisdiction in said court to enter the same.

CLARENCE I. McNAIR.

WINKLER, FLANDERS, SMITH,
BOTTOM & FAWSETT,
DEFREES, BRACE & RITTER,
Solicitors for Respondent.

STATE OF MINNESOTA, }
County of Ramsey, } ss :

Clarence I. McNair being first duly sworn, deposes and says: that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof, and that the same is true to his own knowledge, except as to matters therein set forth to be on information and belief, and as to those he believes them to be true.

CLARENCE I. McNAIR.

Subscribed and sworn to before me this 12th day of October, 1905.

[NOTARIAL SEAL.] HENRY D. LANG,
Notary Public, Ramsey County,
Minnesota.

(Endorsed :) Answer of C. I. McNair. Filed October 12th 1905
Henry D. Lang, clerk.

122 And thereafter on the same day the following order of the circuit court, finding said witnesses, Nelson, Bossard and McNair guilty of contempt was filed of record in said cause, in the words and figures following viz :

- 123 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant,

vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER COMPANY, HENNEPIN Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flaubeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petosky Fibre Paper Company, Rhinelander Paper Company, Defendants.

- 124 In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard, and Clarence I. McNair to answer questions and produce books and documents.

The above entitled matter came before the court upon the petition of the above named petitioner The United States of America this day filed, the report of the special examiner herein also this day filed, the respective answers this day filed by and on behalf of each of the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and upon all the records, files, testimony and exhibits in the above entitled cause, the said witnesses Nelson, Bossard and McNair being personally before the court and appearing by their counsel, Messrs. Winkler, Flanders, Smith, Bottum & Fawsett, and the said petitioner appearing by its counsel, Messrs. Davis, Kellogg & Severance and Robert E. Olds, Esq., and it appearing that pursuant to the order of this court, made and entered on the 7th day of October, 1905, directing the said witnesses, Nelson, Bossard and McNair and each of them, to appear before the said special examiner and answer certain questions and comply with certain requests to produce evidence, the said witnesses did at the time and place directed appear before said special examiner, but that they and each of them did, contrary to the said order of this court and in wilful disobedience thereto and contempt therefor, refuse to answer each and every of the said questions and to comply with each and every of the said requests to produce evidence as therein directed, save and except that four certain questions among those previously propounded to the said witness McNair were not repeated to the said McNair upon his appearance before the said special examiner pursuant to said order; and the said witnesses

Nelson, Bossard and McNair now expressly consenting that these proceedings, although several as to each of said witnesses, may be conducted and concluded and judgment pronounced therein as if the contempt charged were joint instead of several; and the said witnesses, Nelson, Bossard and McNair now also waiving the issue of any attachment herein;

Now therefore, after hearing counsel, it is ordered and ad-
125 judged: that the said witnesses, Benjamin F. Nelson, A. C.

Bossard and Clarence I. McNair and each of them, are severally guilty of contempt of this court in having wilfully disobeyed the said order of this court made and entered herein on the 7th day of October, 1905, by refusing to answer the questions and to comply with the requests to produce evidence therein directed to be answered and complied with, and

It is further ordered and adjudged: that the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, be and they are each of them severally hereby assessed and fined in the sum of one hundred dollars for their said disobedience of the said order, said fines to be paid to the clerk of this court for the use of the United States as punishment for such contempts: and

It is further ordered and adjudged: that in addition to the said fines, the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair and each of them, be imprisoned in the county jail of Ramsey county, Minnesota, each until his said fine is paid and until he shall fully comply with the said order made and entered on the 7th day of October, 1905, and the whole thereof.

And on the application of the said Nelson, Bossard and McNair they are severally granted five days within which to prepare and present for allowance a bill of exceptions herein.

WILLIS VAN DEVANTER,
Circuit Judge.

Dated this 12th day of October 1905.

Endorsed: Judgment in contempt proceedings. Filed October 12th, 1905. Henry D. Lang, clerk.

126 Thereafter and on the 13th day of October the following bill of exceptions was filed of record in said cause, in words and figures following, viz:

127 UNITED STATES OF AMERICA, ss :

In the Circuit Court Thereof for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA

vs.

BENJAMIN F. NELSON, CLARENCE I. MCNAIR, and ANSELM C. Bossard. }

Be it remembered and it is hereby certified that on the 12th day of October, 1905, the above proceeding came on for hearing before the Hon. Willis Van Devanter, one of the judges of said circuit court, and thereupon the United States of America appeared and was represented by Robert E. Olds, and the defendants, Benjamin F. Nelson, Clarence I. McNair and Anselm C. Bossard, appeared and were represented by their counsel, William Brace, and Charles E. Monroe.

And there upon these proceedings came on to be heard upon the petition of the said United States of America, filed on the 12th day of October, 1905, and upon the several answers of said Benjamin F. Nelson; Clarence I. McNair and Anselm C. Bossard, to said petition, and upon evidence heard in open court and upon the report of Robert S. Taylor, special examiner hereinafter inserted and upon certain proceedings herein after set forth, had and taken before said special examiner.

128 And there upon the following proceedings were taken and has, to-wit :

It was heard in evidence and made to appear to the court that heretofore, to-wit, on the 25th day of September, 1905, the United States of America filed its petition in a certain proceeding then pending in said court in which the United States of America was complainant and the General Paper Company, *et al.* were defendants, and in and by said petition showed and represented to the court that the said Benjamin F. Nelson, Clarence I. McNair and Anselm C. Bossard had refused to answer certain questions and produce certain books, papers and documents to be used in evidence in said case so depending in said court, and upon said petition an order to show cause was entered, a copy of which said petition and of said order to show cause are attached to the petition in this proceeding and marked Exhibits "F" and "G" respectively, and by consent of counsel is omitted from this bill of exceptions and made a part thereof by reference to said petition and said exhibit so attached thereto.

To which said petition answers were filed by the said Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair and also by the Hen-e-pin Paper Company, The Itasca Paper Company and the Northwest Paper Company, on the 2nd day of October 1905, said answers being severally in the words and figures following, to-wit :

129 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs.
GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes Benjamin F. Nelson and answering the order to show cause made in the above entitled matter on the 15th day of September, A. D. 1905, and the petition heretofore filed in said matter by said complainant upon which said order to show cause was made, alleges and shows unto the court as follows :

That this respondent is a director and the president of Hennepin Paper Company, one of the defendants in the above entitled matter, and is also the owner and holder of stock in said company of the par value of forty nine thousand (\$49,000.00) dollars, and that the books and papers referred to in said order to show cause and in the petition and schedules thereto attached, upon which said order to show cause was made, are the books and papers of said Hennepin Paper Company and not of this respondent, and are subject to the control of said Hennepin Paper Company and not of this respondent; that this respondent is also a director of General Paper Company, another of the defendants in the above entitled matter, and the owner and holder of stock in said General Paper Company of the par value of two thousand two hundred and fifty dollars; that said Hennepin Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for said complainant for the purpose of being
130 offered in evidence in said cause. Said objections are based upon the following reasons:

1. That the materiality of said books and papers in the case mentioned in said order to show cause now pending in said court has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of said Hennepin Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or papers except on a proper showing that the same are material to said cause to establish some issue therein, and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainant in instituting said cause and in making the requests mentioned in said order to

cause for the inspection, production and introduction as evidence of said books and papers, is to establish and to compel said Hennepin Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainant evidence tending to establish that said Hennepin Paper Company and said General Paper Company have been guilty of certain violations of the act of Congress entitled: "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Hennepin Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Hennepin Paper Company or said General Paper Company, through their officers or otherwise, of said books and papers for inspection and introduction as evidence in said cause would be contrary to the provisions of the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Hennepin Paper Company complained of by said complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said Hennepin Paper Company, be violations of the laws of the State of Minnesota, and would subject said Hennepin Paper Company to forfeiture of its charter and other penalties under said laws; that to compel said Hennepin Paper Company, through this respondent as one of its officers or otherwise, to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in making the requests mentioned in said order to show cause is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying out of and operation under certain agency contracts and agreements existing between it and said Hennepin Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company whose entire business practically rests upon

132 them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Hennepin Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned, would result in great injury, damage or loss, not only to said General Paper Company but also to said Hennepin Paper Company and to this respondent as a stockholder in each of said companies; and that to compel the production by said Hennepin Paper Company or said General Paper Company, or either of them, through this respondent as such director or officer or otherwise, of said books and papers for inspection and introduction as evidence in said cause for the purpose aforesaid, would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering, this respondent alleges and shows unto this court, that all the matters concerning which the questions referred to in said petition and schedules thereto annexed were asked, and which this respondent refused to answer, as stated in said petition, came to this respondent's knowledge exclusively as president and a director of said Hennepin Paper Company, or as a director of said General Paper Company, in the conduct of matters entrusted to him as such director or president, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or officer, and that said Hennepin Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to said questions and to his being required to answer the same, for reasons similar to those already set forth in respect to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say :

133 1. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant or competent evidence in said cause :

2. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel said Hennepin Paper Company and said General Paper Company, through this respondent as such director or officer, to furnish to said complainant evidence tending to establish that said Hennepin Paper Company and said General Paper Company have been guilty of certain violations of the acts of Congress above referred to, and to subject them to the penalties for such violations imposed by said acts, and that to compel said defendants hereinbefore named, or

either of them, through this respondent, to answer said questions would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That the alleged acts of said Hennepin Paper Company complained of by said complainants in its original *position* or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by it, be violations of the laws of the State of Minnesota, and would subject it to forfeiture of its charter and other penalties under said laws; that to compel it through this respondent to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

4th. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying out
134 of and operation under certain agency contracts and agreements existing between it and said Hennepin Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value not only to said General Paper Company, whose entire business practically rests upon him, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including The Hennepin Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned would result in great injury, damage and loss, not only to said Hennepin Paper Company and said General Paper Company, and that to compel said Hennepin Paper Company or said General Paper Company, through this respondent, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or indirectly, to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Furthering answering this respondent alleges that he ought not to be required to answer the questions or comply with the requests, or produce for inspection by counsel for the complainant or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said order to show cause and in

the petition and schedules thereto annexed, upon which said order to show cause was made, not only for the reasons hereinabove set forth but also for the following reasons, that is to say :

1. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests and produce for inspection by counsel for the complainant and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said requests or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

2. That the alleged acts of said Hennepin Paper Company and of said General Paper Company complained of by the complainants in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said defendant companies, involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to penalties and forfeiture under said laws, and that to compel him to answer the questions or comply with the requirements aforesaid, or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be to compel him to furnish evidence tending to establish that he has been guilty of such violations of the laws of the State of Minnesota and to subject him to the penalties and forfeitures aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests, and produce for inspection by counsel for the complainant and for the purpose of being offered in evidence in said cause, the books and papers above referred to, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to loss or detriment in the nature of a penalty or forfeiture, in that the said Hennepin Paper Company, of which this respondent is a stockholder as aforesaid, will be subjected under the laws of the State of Minnesota to the forfeiture of its charter, resulting in the virtual forfeiture of the stock of this respondent in said defendant company, and to be the loss and forfeiture to a large extent of the value of the interest

of this respondent in said corporation, and in that the contracts made through said General Paper Company as its sales agent by said Hennepin Paper Company under and pursuant to the agency contracts herein referred to between said Hennepin Paper Company and said General Paper Company will be virtually annulled and the property rights of said Hennepin Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Hennepin Paper Company, all of which, as this respondent is advised and believe, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and comply with the requests and produce for inspection and for the purpose of being offered in evidence the books and papers referred to in said order to show cause and the petition and schedules aforesaid, and which he has declined to answer and comply with or produce, if material to said cause would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the

United States, and also contrary to the well established rule
 137 of the common law and of equity jurisprudence, that no person will be compelled to discover any fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

BENJAMIN F. NELSON.

WINKLER, FLANDERS, SMITH,
 BOTTUM & FAWSETT AND
 DE FREES, BRACE & RITTER, Solicitors.

STATE OF MINNESOTA, } ss :
 County of Ramsey, }

Benjamin F. Nelson being first duly sworn deposes and says that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof and that the same is true to his knowledge, except as to matters therein set forth on information and belief, and as to the same he believes it to be true.

BENJAMIN F. NELSON.

Sworn to before me and subscribed in my presence this 2nd day of October 1905.

[SEAL.]

HENRY D. LANG,
 Notary Public, Ramsey County, Minnesota.

138 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
 vs.
 GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes the Hennepin Paper Company, one of the defendants in the above entitled matter, and asks leave to appear and file an answer to the order to show cause made by said court in the above entitled matter on the 15th day of September, A. D. 1905. and to the petition upon which said order to show cause was made, in conjunction with the answer and objections made herein by the respondent Benjamin F. Nelson, and in affirmation of the objections and exceptions heretofore made and taken by or on behalf of said Nelson and of this defendant, and for such answer it alleges and shows unto the court as follows:

That the said Benjamin F. Nelson, who has been ordered to show cause before this court why he should not make full and proper answer to certain questions referred to in said petition and schedules thereunto annexed, and comply with certain requests mentioned in said petition and schedules, and also produce for inspection by counsel for the petitioner and for the purpose of being offered in evidence in the cause referred to in said petition certain books and papers, particularly referred to in the said petition and schedules, is and at the time of his examination as a witness, referred to in said petition, was a director and the president of said Hennepin Paper Company.

That the books and papers mentioned in said order to show
 139 cause are the books and papers of this defendant and not of said Nelson, and are subject to the control of this defendant and not of said Nelson, and that this defendant has objected and does object to the production of said books and papers for inspection by counsel for said petitioner, or for the purpose of being offered in evidence in said cause. Said objection is based upon the following reasons:

First. That the materiality of said books and papers in the cause, mentioned in said order to show cause, now pending in this court, has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of this defendant in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of this defendant and the other defendants in said cause to make public, and this defendant submits that it ought not to be required through its officers or otherwise to disclose any portions of said books or papers, except on a proper showing that the same are material to said cause to establish some

issue therein and a showing that the same are not privileged for the protection of this defendant.

Second. That the purpose of said complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause for the inspection, production and introduction in evidence of said books and papers is to establish and to compel this defendant to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the act of Congress entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, as is more

140 fully set forth in said complainant's original petition or bill of complaint in said cause, and to subject this defendant to the penalties for such violations imposed by said act, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause would be contrary to the provisions of the fifth amendment of the Constitution of the United States which provides that no person shall be compelled in any criminal case to be a witness against himself; and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Third. That the alleged acts of this defendant complained of by the complainant in its said original petition and bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant to forfeiture of its charter and other penalties under said laws; that to compel it through its said officers or otherwise to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and to subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause is to obtain from this court a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and the General Paper Company, one of the other defendants named in said cause, on the alleged

141 ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value to this defendant and that such virtual annulment of, and injunction from carrying out, said contracts and agreements would result in great

injury, damage and loss to this defendant, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause for the purposes aforesaid would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Further answering this defendant alleges and shows unto this court that all the matters concerning which the questions referred to in said petition and schedules thereto annexed were asked and which said Nelson refused to answer, as stated in said petition, came to the knowledge of said Nelson as a director and president of this defendant in the conduct of matters entrusted to him as such president and director by this defendant, and which this defendant, from the nature of the case, was compelled to entrust to him as such president and director, and that this defendant has objected and does object to said questions and to the same being answered by said Nelson for reasons similar to those already set forth in reference to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say:

First. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant or competent evidence in said cause.

142 Second. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel this defendant, through its said president and director, to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the acts of Congress above referred to and to subject this defendant to the penalties for such violations imposed by said acts, and that to compel this defendant, through its said president and director, to answer said questions would be contrary to the provisions hereinafter referred to of said fourth and fifth amendments to the Constitution of the United States.

Third. That the alleged acts of this defendant complained of by the complainant in its said original petition or bill of complaint in said cause and which said complainant is endeavoring to establish in said cause would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant to forfeiture of its charter and other penalties under said laws: that to compel it through its said president and director to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts, and subject

it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions, hereinbefore referred to, of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and the General Paper Company, one of the other defendants named in said cause, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts
143 and agreements are of great value to this defendant and that such virtual annulment of, and injunction from carrying out, said contracts and agreements would result in great injury, damage and loss to this defendant, and that to compel this defendant, through its said president and director, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Wherefore this defendant asks that said order to show cause be diminished.

HENNEPIN PAPER COMPANY,
By B. F. NELSON, Pres.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DEFREES, BRACE & RITTER,
Solicitors for Defendant Hennepin Paper Company.

STATE OF MINNESOTA, }
County of Ramsey, } ss:

Benjamin F. Nelson, being first duly sworn, deposes and says that he is the president of Hennepin Paper Company, the defendant making the above answer, and verifies said answer in behalf of said Hennepin Paper Company, which is a corporation; that all the facts set forth in said answer are within the knowledge of this deponent and that the same are true to his own knowledge.

Subscribed and sworn to before me this 2d day of October, A. D. 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,
Notary Public, County of Ramsey, Minnesota.

My commission expires April 21st 1906.

(Endorsed :) Answer of Hennepin Paper Co. to order to show cause Filed October 2nd 1905 Henry D. Laug, clerk.

144 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs.
GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes Clarence I. McNair and answering the order to show cause made in the above entitled matter on the 15th day of September, A. D. 1905, and the petition heretofore filed in said matter by said complainant upon which said order to show cause was made, alleges and shows unto the court as follows:

That this respondent is a director and the general manager of Northwest Paper Company, one of the defendants in the above entitled matter, and is also the owner and holder of stock in said company of the par value of twenty-five thousand dollars, and that the books and papers referred to in said order to show cause and in the petition and schedules thereto attached, upon which said order to show cause was made, are the books and papers of said Northwest Paper Company and not of this respondent, and are subject to the control of said Northwest Paper Company and not of this respondent; that this respondent is also a director of General Paper Company, another of the defendants in the above entitled matter, and the owner and holder of stock in said General Paper Company of the par value of six thousand dollars; that said Northwest Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for said complainant for the purpose of being offered in evidence in
145 said cause. Said objections are based upon the following reasons:

1. That the materiality of said books and papers in the cause mentioned in said order to show cause now pending in said court has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of said Northwest Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or papers except on a proper showing that the same are material to said cause to establish some issue therein,

and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainant in instituting said cause and in making the requests mentioned in said order to show cause for the inspection, production and introduction as evidence of said books and papers, is to establish and to compel said Northwest Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainant evidence tending to establish that said Northwest Paper Company and said General Paper Company have been guilty of certain violations of the act of Congress entitled: "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Northwest Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Northwest Paper Company or said General Paper Company, through their officers or otherwise, of said books and papers for inspection and introduction as evidence in

146 said cause would be contrary to the provisions of the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Northwest Paper Company complained of by said complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said Northwest Paper Company, be violations of the laws of the State of Minnesota, and would subject said Northwest Paper Company as a corporation organized under the laws of West Virginia to forfeiture of its license to do business in the State of Minnesota where its property and business is located, and to other penalties under said laws; that to compel said Northwest Paper Company, through this respondent as one of its officers or otherwise, to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in making the requests mentioned in said order to show cause is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the

carrying out of and operation under certain agency contracts and agreements existing between it and said Northwest Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Northwest Paper Company,

147 and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned, would result in great injury, damage and loss, not only to said General Paper Company but also to said Northwest Paper Company and to this respondent as a stockholder in each of said companies; and that to compel the production by said Northwest Paper Company or said General Paper Company, or either of them through this respondent as such director or officer or otherwise, of said books and papers for inspection and introduction as evidence in said cause for the purposes aforesaid, would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering, this respondent alleges and shows unto this court, that all the matters concerning which the questions referred to in said petition and schedules thereto annexed were asked, and which this respondent refused to answer, as stated in said petition, came to this respondent's knowledge exclusively as general manager and director of said Northwest Paper Company, or as a director of said General Paper Company, in the conduct of matters entrusted to him as such director or officer, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or officer, and that said Northwest Paper Company and said General Paper Company have objected and do object, and this respondent has objected and does object to said questions and to his being required to answer the same, for reasons similar to those already set forth in respect to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say:

148 1. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant of competent evidence in said cause.

2. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel said Northwest Paper Company and said General Paper Company,

through this respondent as such director or officer, to furnish to said complainant evidence tending to establish that said Northwest Paper Company and said General Paper Company have been guilty of certain violations of the acts of Congress above referred to, and to subject them to the penalties for such violations imposed by said acts, and that to compel said defendants hereinbefore named, or either of them, through this respondent, to answer said questions would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That the alleged acts of said Northwest Paper Company complained of by said complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by it, be violations of the laws of the State of Minnesota, and would subject it as a corporation organized under the laws of West Virginia to forfeiture of its license to do business in the State of Minnesota where its property and business are located, and to other penalties under said laws; that to compel it through this respondent to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree enjoining the said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying

149 out of and operation under certain agency contracts and agreements existing between it and said Northwest Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value not only to said General Paper Company, whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the Northwest Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned would result in great injury, damage and loss, not only to said Northwest Paper Company and said General Paper Company but also to this respondent as a stockholder in each of said companies, and that to compel said Northwest Paper Company or said General Paper Company, through this respondent, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law as well as of equity jurispru-

dence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Further answering this respondent alleges that he ought not to be required to answer the questions or comply with the requests, or produce for inspection by counsel for the complainant or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said order to show cause and in the petition and schedules thereto annexed, upon which said order to show cause was made, not only for the reasons hereinabove set forth but also for the following reasons, that is to say:

1. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests and produce for inspection by counsel for the complainant and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said requests or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

2. That the alleged acts of said Northwest Paper Company and of said General Paper Company complained of by the complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said defendant companies, involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to penalties and forfeitures under said laws, and that to compel him to answer the questions or comply with the requirements aforesaid, or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be to compel him to furnish evidence tending to establish that he has been guilty of such violations of the laws of the State of Minnesota and to subject him to the penalties and forfeitures aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests, and produce for inspection by counsel for the complainant and for the purpose of being offered in evidence in said cause, the books and papers above referred to, is to establish and to compel this respondent to

furnish to said complainant evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to loss or detriment in the nature of a penalty or forfeiture, in that the said Northwest Paper Company, of which this respondent is a stockholder as aforesaid, as a corporation organized under the laws of West Virginia, will be subjected under the laws of the State of Minnesota to the forfeiture of its license to do business in the State of Minnesota resulting in the virtual forfeiture of the stock of this respondent in said defendant company, and to the loss and forfeiture to a large extent of the value of the interest of this respondent in said corporation, and in that the contracts made through said General Paper Company as its sales agent by said Northwest Paper Company under and pursuant to the agency contracts herein referred to between said Northwest Paper Company and said General Paper Company, will be virtually annulled and the property rights of said Northwest Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Northwest Paper Company, all of which, as this respondent is advised and believes, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and comply with the requests and produce for inspection and for the purpose of being offered in evidence the books and papers referred to in said order to show cause and the petition and schedules aforesaid, and which he has declined to answer and comply with or produce, if material to said cause would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the United States, and also contrary to the well established rule of the common law and of equity jurisprudence, that no person will be compelled to discover any

152 fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

CLARENCE I. McNAIR.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DEFREES, BRACE & RITTER,

Solicitors.

STATE OF MINNESOTA, }
County of Ramsey, } ss:

Clarence I. McNair being first duly sworn deposes and says that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof and that the same is true to his knowledge, except as to matters therein set forth on information and belief, and as to the same he believes it to be true.

CLARENCE I. McNAIR.

Sworn to before me and subscribed in my presence this 2d day of October, 1905.

HENRY D. LANG,
Notary Public, Ramsey County,
Minnesota.

[NOTORIAL SEAL.]

(Endorsed :) Answer of Clarence I. McNair to order to show cause. Filed October 2d, 1905. Henry D. Lang, clerk.

153 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs.
GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes The Northwest Paper Company, one of the defendants in the above entitled matter, and asks leave to appear and file an answer to the order to show cause made by said court in the above entitled matter on the 15th day of September, A. D. 1905, and to the petition upon which said order to show cause was made, in conjunction with the answer and objections made herein by the respondent Clarence I. McNair, and in affirmation of the objections and exceptions heretofore made and taken by or on behalf of said McNair and of this defendant, and for such answer it alleges and shows unto the court as follows:

That the said Clarence I. McNair, who has been ordered to show cause before this court why he should not make full and proper answer to certain questions referred to in said petition and schedules thereunto annexed, and comply with certain requests mentioned in said petition and schedules, and also produce for inspection by counsel for the petitioner and for the purpose of being offered in evidence in the cause referred to in said petition certain books and papers, particularly referred to in the said petition and schedules, is and at the time of his examination as a witness, referred to in said petition,

was a director and the general manager of said Northwest Paper Company. That the books and papers mentioned in said order to show cause are the books and papers of this defendant and not of said McNair, and are subject to the control of this defendant and not of said McNair, and that this defendant has objected and does object to the production of said books and papers for inspection by counsel for said petitioner, or for the purpose of being offered in evidence in said cause. Said objection is based upon the following reasons:

First. That the materiality of said books and papers in the cause mentioned in said order to show cause, now pending in this court has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence and that

the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of this defendant in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of this defendant and the other defendants in said cause to make public, and this defendant submits that it ought not to be required through its officers or otherwise to disclose any portions of said books or papers, except on a proper showing that the same are material to said cause to establish some issue therein and a showing that the same are not privileged for the protection of this defendant.

Second. That the purpose of said complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause for the inspection, production and introduction in evidence of said books and papers is to establish and to compel this defendant to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the acts of Congress entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, as is more fully set forth in said complainant's original petition or bill of complaint in said cause, and to subject this defendant to the penalties for such violations imposed by said act, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause would be contrary to the provisions of the fifth amendment to the Constitution of the United States which provides that no person shall be compelled in any criminal case to be a witness against himself; and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Third. That the alleged acts of this defendant complained of by the complainant in its original petition and bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant as a corporation organized under the laws of the State of West Virginia to forfeiture of its license to do business in the State of Minnesota where its property and business are located and to other penalties under said laws; that to compel it through its said officers, or otherwise, to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and to subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause is to obtain from this court a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and The General Paper Company, one of the other defendants named in said cause, on the alleged ground
 156 that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value to this defendant and that such virtual annulment of, and injunction from carrying out, said contracts and agreements would result in great injury, damage and loss to this defendant, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause for the purposes aforesaid would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Further answering this defendant alleges and shows unto this court that all the matters concerning which the questions referred to in said petition and schedule thereto annexed were asked and which said McNair refused to answer, as stated in said petition, came to the knowledge of said McNair as a director and the general manager of this defendant in the conduct of matters entrusted to him as such general manager and director by this defendant, and which this defendant, from the nature of the case, was compelled to entrust to him as such officer and director, and that this defendant has objected and does object to said questions and to the same being answered by said McNair for reasons similar to those already set forth in reference to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say:

First. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant or competent evidence in said cause.

157 Second. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel this defendant, through its said general manager and director, to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the acts of Congress above referred to and to subject this defendant to the penalties for such violations imposed by said acts, and that to compel this defendant, through its said general manager and director, to answer said questions would be contrary to the provisions hereinbefore re-

ferred to of said fourth and fifth amendments to the Constitution of the United States.

Third. That the alleged acts of this defendant complained of by the complainant in its said original petition or bill of complaint in said cause and which said complainant is endeavoring to establish in said cause would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant as a corporation organized under the laws of West Virginia to forfeiture of its license to do business in said State of Minnesota where its property and business are located, and to other penalties under said laws; that to compel it through its said general manager and director to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts, and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions, hereinbefore referred to, of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and The General Paper Company, one of the other defendants named in said cause, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value
158 to this defendant and that such virtual annulment of, and injunction from carrying out, said contracts and agreements would result in great injury, damage and loss to this defendant, and that to compel this defendant, through its said general manager and director, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Wherefore this defendant asks that said order to show cause be dismissed.

NORTHWEST PAPER COMPANY,
By CLARENCE I. McNAIR,
General Manager.

WINKLER, GFLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER, Solicitors.

STATE OF MINNESOTA, }
County of Ramsey, } ss:

Clarence I. McNair, being first duly sworn, deposes and says that he is the general manager of Northwest Paper Company, the defendant making the above answer, and verifies said answer in behalf of said defendant, which is a corporation; that all the facts set forth in said answer are within the knowledge of this deponent and that the same are true to his own knowledge.

CLARENCE I. MCNAIR.

Subscribed and sworn to before me this 2nd day of October A. D. 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,

Notary Public, County of Ramsey, Minnesota.

My commission expires April 21st, 1906.

(Endorsed:) Answer of Northwest Paper Co. to order to show cause. Filed October 2nd, 1905. Henry D. Lang, clerk.

159 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }

vs.

GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes A. C. Bossard and answering the order to show cause made in the above entitled matter on the 15th day of September, A. D. 1905, and the petition heretofore filed in said matter by said complainant upon which said order to show cause was made, alleges and shows unto the court as follows:

That this respondent is a director and the manager and treasurer of Itasca Paper Company, one of the defendants in the above entitled matter, and is also the owner and holder of stock in said company of the par value of forty thousand dollars, and that the books and papers referred to in said order to show cause and in the petition and schedules thereto attached, upon which said order to show cause was made, are the books and papers of said Itasca Paper Company and not of this respondent, and are subject to the control of said Itasca Paper Company and not of this respondent; that this respondent is also a director of General Paper Company, another of the defendants in the above entitled matter, and the owner and holder of stock in said General Paper Company of the par value of three thousand dollars; that said Itasca Paper Company and said

160 General Paper Company have objected and do object, and this respondent has objected and does object to the production of said books and papers for inspection by counsel for

said complainant for the purpose of being offered in evidence in said cause. Said objections are based upon the following reasons:

1. That the materiality of said books and papers in the cause mentioned in said order to show cause now pending in said court has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence, and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of said Itasca Paper Company and said General Paper Company in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of both of said companies to make public, and this respondent submits that he ought not to be required to disclose any portions of said books or papers except on a proper showing that the same are material to said cause to establish some issue therein, and a showing that the same are not privileged for the protection of the defendants above named.

2. That one of the purposes of said complainant in instituting said cause and in making the requests mentioned in said order to show cause for the inspection, production and introduction as evidence of said books and papers, is to establish and to compel said Itasca Paper Company and said General Paper Company, and this respondent as such director or officer of each of said defendants, to furnish to said complainant evidence tending to establish that said Itasca Paper Company and said General Paper Company have been guilty of certain violations of the act of Congress entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, and to subject said Itasca Paper Company and said General Paper Company to the penalties for such violations imposed by said act, and that to compel the production by said Itasca Paper Company or said General Paper Company, through their officers or otherwise, of said books and papers for inspection and introduction as evidence in said cause would be contrary to the provisions of the fifth amendment to the Constitution of the

161 United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

3. That the alleged acts of said Itasca Paper Company complained of by said complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said Itasca Paper Company, be violations of the laws of the State of Minnesota, and would subject said Itasca Paper Company to forfeiture of its charter and other penalties under said laws; that to compel said Itasca Paper Company, through this respondent as one of its officers or

otherwise, to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore mentioned of the fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in making the requests mentioned in said order to show cause is to obtain from said court a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and enjoin the carrying out of and operations under certain agency contracts and agreements existing between it and said Itasca Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said act of Congress; that said contracts and agreements are of great value, not only to said General Paper Company whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the said Itasca Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned, would result in great injury, damage and loss, not only to said General Paper Company but also to said Itasca Paper Company and to this respondent as a stockholder in each of said companies; and that to compel the production by said Itasca Paper Company or said General Paper Company, or either of them, through this respondent as such director or officer or otherwise, of said books and papers for inspection and introduction as evidence in said cause for the purposes aforesaid, would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law, as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty, or anything in the nature of a forfeiture or penalty.

Further answering, this respondent alleges and shows unto this court, that all the matters concerning which the questions referred to in said petition and schedules thereto annexed were asked, and which this respondent refused to answer, as stated in said petition, came to this respondent's knowledge exclusively as manager and treasurer and director of said Itasca Paper Company, or as a director of said General Paper Company, in the conduct of matters entrusted to him as such director or officer, and which said companies, from the nature of the case, were compelled to entrust to this respondent as such director or officer, and that said Itasca Paper Company and said General Paper Company have objected and do object, and this

respondent has objected and does object to said questions and to his being required to answer the same, for reasons similar to those already set forth in respect to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say :

163 1. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant or competent evidence in said cause.

2. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel said Itasca Paper Company and said General Paper Company, through this respondent as such director or officer, to furnish to said complainant evidence tending to establish that said Itasca Paper Company and said General Paper Company have been guilty of certain violations of the acts of Congress above referred to, and to subject them to the penalties for such violations imposed by said acts, and that to compel said defendants hereinabove named, or either of them, through this respondent, to answer said questions would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That the alleged acts of said Itasca Paper Company complained of by said complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by it, be violations of the laws of the State of Minnesota, and would subject it to forfeiture of its charter and other penalties under said laws; that to compel it through this respondent to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and subject it the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

4. That in addition to the matters above set forth, the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree enjoining said General Paper Company from carrying on the business for which it was incorporated, and to enjoin the carrying

164 out of and operation under certain agency contracts and agreements existing between it and said Itasca Paper Company, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value not only to said General Paper Company, whose entire business practically rests upon them, but are also of great value to and constitute valuable property rights in each of the defendants respectively parties thereto, including the Itasca Paper Company, and that such injunction from carrying out said contracts and agreements and their virtual annulment thereby occasioned would result in great injury,

damage and loss, not only to said Itasca Paper Company and said General Paper Company but also to this respondent as a stockholder in each of said companies, and that to compel said Itasca Paper Company or said General Paper Company, through this respondent, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States, but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions, which may subject him, either directly or eventually, to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Further answering this respondent alleges that he ought not to be required to answer the questions or comply with the requests, or produce for inspection by counsel for the complainant or for the purpose of being offered in evidence in the cause above referred to, the books and papers referred to in said order to show cause and in the petition and schedules thereto annexed, upon which said order to show cause was made, not only for the reasons hereinabove set forth but also for the following reasons, that is to say:

1. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests and produce for inspection by counsel for the complainant and for the purpose of being offered in evidence in said cause the books and papers aforesaid, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish that he has been guilty of certain violations of the acts of Congress hereinbefore mentioned and referred to, and to subject him to the penalties for such violations imposed by said acts, and that to compel him to answer said questions or comply with said requests or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

2. That the alleged acts of said Itasca Paper Company and of said General Paper Company complained of by the complainant in its said original petition or bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would, if committed by said defendant companies involve certain violations of the laws of the State of Minnesota by this respondent, and would subject him to penalties and forfeitures under said laws, and that to compel him to answer the questions or to comply with the requirements aforesaid, or to produce for inspection or for the purpose of being offered in evidence in said cause the said books and papers, would be to compel him to furnish evidence tending to establish that he had been guilty of such violations of the laws of the State of Minnesota and to subject him to the penalties and forfeitures afore-

said, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

3. That one of the purposes of said complainant in instituting said cause and in seeking to require this respondent to answer the questions and comply with the requests, and produce for inspection by counsel for the complainant and for the purpose of being
166 offered in evidence in said cause, the books and papers above referred to, is to establish and to compel this respondent to furnish to said complainant evidence tending to establish the allegations of the original petition or bill of complaint in said cause, which, if established, will result in subjecting this respondent to lose or detriment in the nature of a penalty or forfeiture, in that the said Itasca Paper Company, of which this respondent is a stockholder as aforesaid, will be subjected under the laws of the State of Minnesota to the forfeiture of its charter, resulting in the virtual forfeiture of the stock of this respondent in said defendant company, and to the loss and forfeiture to a large extent of the value of the interest of this respondent in said corporation, and in that the contracts made through said General Paper Company as its sales agent by said Itasca Paper Company under and pursuant to the agency contracts herein referred to between said Itasca Paper Company and said General Paper Company, will be virtually annulled and the property rights of said Itasca Paper Company in said contracts destroyed; that there are a large number of such contracts outstanding under which large sums of money are due to said Itasca Paper Company, all of which, as this respondent is advised and believes, will be or may be forfeited and lost to said defendant and to this respondent as a stockholder therein in case the illegal combination alleged in said original petition or bill of complaint is established by the decree or judgment in said cause; and this respondent alleges that to compel him to answer the questions and comply with the requests and produce for inspection and for the purpose of being offered in evidence the books and papers referred to in said order to show cause and the petition and schedules aforesaid, and which he has declined to answer and comply with or produce, if material to said cause would be contrary to the provisions of said fourth and fifth amendments to the Constitution of the United States, and also contrary to
the well established rule of the common law and of equity
167 jurisprudence, that no person will be compelled to discover any fact or matter which may subject him to forfeiture or penalty or anything in the nature of a forfeiture or penalty.

ANSELM C. BOSSARD,

WINKLER, FLANDERS, SMITH, BOTTUM
& FAWSETT AND
DE FREES, BRACE & RITTER, Solicitors.

STATE OF MINNESOTA, }
County of Ramsey, } ss:

Anselm C. Bossard being first duly sworn deposes and says that he is the respondent making the foregoing answer; that he has read said answer and knows the contents thereof and that the same is true to his knowledge, except as to matters therein set forth on information and belief, and as to the same he believes it to be true.

ANSELM C. BOSSARD.

Sworn to before me and subscribed in my presence this 2d day of October, 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,

Notary Public, Ramsey County, Minnesota.

(Endorsed:) Answer of Anselm C. Bossard to order to show cause. Filed October 2d 1905. Henry D. Lang, clerk.

168 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs.
GENERAL PAPER COMPANY ET AL., Defendants. }

Now comes The Itasca Paper Company, one of the defendants in the above entitled matter, and asks leave to appear and file an answer to the order to show cause made by said court in the above entitled matter on the 15th day of September, A. D. 1905, and to the petition upon which said order to show cause was made, in conjunction with the answer and objections made herein by the respondent Anselm C. Bossard, and in affirmation of the objections and exceptions heretofore made and taken by or on behalf of said Bossard and of this defendant, and for such answer it alleges and shows unto the court as follows:

That the said Anselm C. Bossard, who has been ordered to show cause before this court why he should not make full and proper answer to certain questions referred to in said petition and schedules thereunto annexed, and comply with certain requests mentioned in said petition and schedules, and also produce for inspection by counsel for the petitioner and for the purpose of being offered in evidence in the cause referred to in said petition certain books and papers, particularly referred to in the said petition and schedules, is and at the time of his examination as a witness, referred to in said petition, was a director and the manager and treasurer of said Itasca Paper Company. That the books and papers mentioned in said order to show cause are the books and papers of this

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defendant and not of said Bossard, and are subject to the control of this defendant and not of said Bossard, and that this defendant has objected and does object to the production of said books and papers for inspection by counsel for said petitioner, or for the purpose of being offered in evidence in said cause. Said objection is based upon the following reasons:

First. That the materiality of said books and papers in the cause, mentioned in said order to show cause, now pending in this court, has not been established so as to authorize a court of equity to order their inspection, production and introduction in evidence and that the same are not material, relevant or competent evidence in said cause; that said books and papers contain matters of importance relating to the business of this defendant in no way bearing upon or touching the issues in said cause, which it would be highly injurious to the business interests of this defendant and the other defendants in said cause to make public, and this defendant submits that it ought not to be required through its officers or otherwise to disclose any portions of said books or papers, except on a proper showing that the same are material to said cause to establish some issue therein and a showing that the same are not privileged for the protection of this defendant.

Second. That the purpose of said complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause for the inspection, production and introduction in evidence of said books and papers is to establish and to compel this defendant to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the act of Congress entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and the acts amendatory thereof or supplemental thereto, as is more fully set forth in said complainant's original petition or bill of complaint in said cause, and to subject
170 this defendant to the penalties for such violations imposed by said act, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause would be contrary to the provisions of the fifth amendment to the Constitution of the United States which provides that no person shall be compelled in any criminal case to be a witness against himself; and also contrary to the provisions of the fourth amendment to the Constitution of the United States which provides that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.

Third. That the alleged acts of this defendant complained of by the complainant in its original petition and bill of complaint in said cause, and which said complainant is endeavoring to establish in said cause, would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant to forfeiture of its charter and other penalties under said laws; that

to compel it through its said officers or otherwise to produce said books and papers for inspection and introduction as evidence in said cause would be to compel it to furnish evidence tending to establish that it has been guilty of such acts and to subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause in this court and in making the requests mentioned in said order to show cause is to obtain from this court a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and The General Paper Company, one of the other defendants named in said cause, on the alleged
171 ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great value to this defendant and that such virtual annulment of, and injunction from carrying out, said contracts and agreements would result in great injury, damage and loss to this defendant, and that to compel the production by this defendant through its said officers or otherwise of said books and papers for inspection and introduction in evidence in said cause for the purposes aforesaid would be contrary not only to the provisions of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Further answering this defendant alleges and shows unto this court that all the matters concerning which the questions referred to in said petition and schedules thereto annexed were asked and which said Bossard refused to answer, as stated in said petition, came to the knowledge of said Bossard as a director and the manager and treasurer of this defendant in the conduct of matters entrusted to him as such manager, treasurer and director by this defendant, and which this defendant, from the nature of the case, was compelled to entrust to him as such officer and director, and that this defendant has objected and does object to said questions and to the same being answered by said Bossard for reasons similar to those already set forth in reference to the production, inspection and introduction in evidence of the books and papers above mentioned, that is to say :

First. That the materiality of said questions in the cause above mentioned has not been established so as to authorize a court of equity to order them to be answered, and that the same are not material, relevant or competent evidence in said cause.

172 Second. That the purpose of said complainant in instituting said cause and in asking said questions is to establish and to compel this defendant, through its said manager, treasurer and director, to furnish to said complainant evidence tending to establish that it has been guilty of certain violations of the acts of Congress above referred to and to subject this defendant to the penalties for such violations imposed by said acts, and that to compel this defendant through its said manager, treasurer and director, to answer said questions would be contrary to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States.

Third. That the alleged acts of this defendant complained of by the complainant in its said original petition or bill of complaint in said cause and which said complainant is endeavoring to establish in said cause would be, if committed by this defendant, violations of the laws of the State of Minnesota and would subject this defendant to forfeiture of its charter and other penalties under said laws; that to compel it through its said manager, treasurer and director to answer the questions aforesaid would be to compel it to furnish evidence tending to establish that it has been guilty of such acts, and subject it to the forfeiture of its charter and other penalties aforesaid, contrary to the provisions, hereinbefore referred to, of said fourth and fifth amendments to the Constitution of the United States.

Fourth. That in addition to the matters above set forth the purpose of the complainant in instituting said cause and in asking the questions mentioned in said order to show cause is to obtain a decree virtually annulling, and enjoining this defendant from carrying out, certain contracts and agreements now existing between it and The General Paper Company, one of the other defendants named in said cause, on the alleged ground that said contracts and agreements were made and are in violation of the provisions of said acts of Congress; that said contracts and agreements are of great

173 value to this defendant and that such virtual annulment of and injunction from carrying out, said contracts and agreements would result in great injury, damage and loss to this defendant, and that to compel this defendant, through its said manager, treasurer and director, to answer the questions aforesaid in aid of the purposes aforesaid would be contrary not only to the provisions hereinbefore referred to of said fourth and fifth amendments to the Constitution of the United States but also contrary to the well established rule of the common law as well as of equity jurisprudence, that no person will be compelled to discover any fact, either by producing documents or answering questions which may subject him either directly or eventually to prosecution for a crime or to a forfeiture or penalty or anything in the nature of a forfeiture or penalty.

Wherefore this defendant asks that said order to show cause be dismissed.

ITASCA PAPER COMPANY,
By A. C. BOSSARD, Treas.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Defendant Itasca Paper Company.

STATE OF MINNESOTA, }
County of Ramsey, } ss.:

Anselm C. Bossard, being first duly sworn, deposes and says that he is the manager and treasurer of Itasca Paper Company, the defendant making the above answer, and verifies said answer in behalf of said Itasca Paper Company, which is a corporation; that all the facts set forth in said answer are within the knowledge of this deponent and that the same are true to his own knowledge.

ANSELM C. BOSSARD.

Subscribed and sworn to before me this 2d day of October, A. D. 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,
Notary Public, County of Ramsey, Minnesota.

My commission expires April 21st 1906.

(Endorsed:) Answer of Itasca Paper Co. to order to show cause
Filed October 2nd 1905 Henry D. Lang, clerk.

174 And it is further certified that at the hearing of said petition for an order to show cause, so filed on the 25th day of September, 1905, there was offered and received in evidence the original bill of complaint in the cause of the said United States of America vs. The General Paper Company, *et al.*, a copy of which is attached to the petition in this cause and is by agreement of counsel omitted from this bill of exceptions and made a part thereof by reference to said copy attached to said petition.

And there was also offered in evidence at the hearing of said petition for an order to *shi* cause, as aforesaid, the answer to said original bill filed by said General Paper Company, said Hennepin Paper Company, said Itasca Paper Company, said Northwest Paper Company, *et al.* and the separate answers of the Rhinelander Paper Company, copies of which said answers are attached to the proceedings in this petition and are by consent of counsel, omitted from this bill of exceptions and made a part thereof by reference to said copies so attached to said petition in this proceeding.

And it further appeared that the United States of America had filed a general replication to said answers and it further appeared and was shown to the court that thereupon there was duly entered in said cause of The United States of America vs. The General Paper Company, *et al.* a certain order appointing one, Robert S. Taylor, a special examiner, to take testimony in said proceedings, said order being in the words and figures following, to-wit:

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Order Appointing Special Examiner.

It appearing that the above entitled cause is at issue on the petition, answers and replications as to all of the above named defendants;

Now therefore, upon the application of counsel for the petitioner therein,

It is ordered: that Robert S. Taylor of the city of St. Paul and State of Minn. be, and he hereby is designated and appointed by the court as special examiner to take and report to the court the evidence adduced or offered by the said petitioner and the answering defendants respectively, with full authority as such special examiner according to the rules and practice in such case made and provided; that said examiner give immediate notice by mail to counsel for the respective parties, of his appointment herein, and of the time and place when and where he will attend for the purpose of hearing such testimony as may be adduced, and that notice be given by the respective counsel or solicitors to the opposing counsel or solicitors or parties, by mail or personally, of the time and place of the examination for such reasonable time as the examiner may fix or order in each case; that said examiner may, when necessary or convenient for the respective parties, continue said hearings from time to time by order made and entered during any regularly appointed or noted hearing had hereunder; that said examiner may in his discretion, when necessary or convenient for the respective parties or witnesses, hold such hearings and receive testimony in behalf of any party at such times and such places within or without the district of Minnesota as he may designate and appoint by giving special notice to the respective parties or their solicitors or by order made and entered at any regularly appointed or noted hearing had hereunder, notice of such time and place of hearing also to be given by the respective counsel or solicitors to the opposing counsel or solicitors or parties, as provided by this order; that all testimony adduced pursuant hereto be taken in the usual manner under oath, and when completed be reported by said examiner, together with all and several the proceedings had before him, to this court, and filed with the clerk thereof in accordance with the rules and practice of this court.

By the court:

WALTER H. SANBORN,
Circuit Judge.

Dated this 1st day of May, 1905.

7 And it further appeared and was shown in evidence in said hearing that afterwards, to wit, on or about the 17th day of July, 1905, the United States of America filed in said cause a petition for writs of *subpœna duces tecum* directed to the said Benjamin Nelson, Clarence I. McNair and Anselm C. Bossard, commanding them to appear before said Robert S. Taylor, special examiner, and testify in said cause of the United States of America vs. said General Paper Company, and produce certain books and papers of the said Menepin Paper Company, Itasca Paper Company, and Northwest Paper Company, a copy of which said petition is attached to the petition in this proceeding and is by consent of counsel omitted from this bill of exceptions and made a part thereof by reference to said copy. And there upon an order was entered directing that the clerk of this court issue said writs of *subpœna duces tecum*, as prayed for in said petition, a copy of which order is attached to the petition in this proceeding and is, by consent of counsel, omitted from the bill of exceptions and made a part thereof by reference to said copy.

And thereupon three several writs of *subpœna duces tecum* were issued out of said court directed respectively to the said Benjamin Nelson, Anselm C. Bossard and Clarence I. McNair, requiring them and each of them to appear before the said Robert S. Taylor, on the 24th day of July, 1905, at the city of St. Paul and State of Minnesota, to testify in said cause and to produce certain books, 78-614 papers and documents, more particularly mentioned and specified in said several writs of *subpœna duces tecum*, a copy of each of which said writs is attached to said petition in this proceeding and by consent of counsel copies of said writs are omitted from this bill of exceptions and made a part thereof by reference to said copies attached to the petition in this proceeding.

And thereupon there was also offered in evidence and received by the court, copies of the proceedings before, and evidence taken, by the said special examiner, and exhibits filed with him in pursuance of his said appointment and divers hearings had before him by virtue thereof, which said testimony and exhibits are in the words and figures following, to-wit:

* * * * *

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FEDERAL BUILDING,
St. Paul, Minn., July 24, 1905.

The hearing was resumed before the special examiner at the above time and place, pursuant to order of the special examiner dated July 15, 1905, Messrs. Frank B. Kellogg and Robert E. Olds appearing on behalf of the petitioner, and Mr. James G. Flanders and Mr. William Brace on behalf of the defendants.

BENJAMIN F. NELSON, being duly sworn as a witness on behalf of the petitioner, testified as follows :

Direct examination.

By Mr. KELLOGG :

Q. Where do you reside, Mr. Nelson ?

A. Minneapolis.

Q. Are you connected in any way with the Hennepin Paper Company ?

A. Yes, sir.

Q. In what capacity ?

A. As president.

Q. How long have you been so connected with the company ?

A. Since its organization, I think about '88 or '89.

Q. Where are the headquarters of that corporation ?

A. Minneapolis.

Q. The mills are situated at what place ?

A. Little Falls.

Q. Have you had any connection with the General Paper Company ?

A. Yes, sir.

Q. In what capacity ?

A. They are our sales agent.

616 Q. When was that company organized ?

A. In 1900.

Q. Sometime in May, 1900, Mr. Nelson, do you remember ?

A. I think it was.

Mr. FLANDERS: That is established—May 26, 1900.

WITNESS: Yes.

Q. Your company entered into a contract making that company its sales agent ?

A. Yes sir.

Q. That contract is in evidence and I wish to call your attention to it. It is dated July 5, 1900, is it not ?

A. I think so.

Q. Did the General Paper Company act as your company's sales agent after that time ?

A. Yes sir.

Q. During all the time up to the present time ?

A. Yes sir.

Q. I think you renewed your contract in December, 1904, did you ?

A. About that time.

Q. Prior to the organization of the General Paper Company how did you sell the paper manufactured by your company ?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. Why, in the usual way. We some times had traveling men on the road, some times sold from the general office; some orders came through the mail.

Q. Sold it yourself, your own company?

A. Yes sir.

Q. Managed the sales?

A. Yes sir.

Q. And your traveling man visited different publishers and wholesalers to sell paper to them?

617 Objected to as incompetent, irrelevant and immaterial.

A. Why, yes, at times, and sold in different ways. Some times I sold it myself.

Q. Where did you sell it generally?

Same objection by defendants.

Q. Over what general territory?

A. Wherever I could find a purchaser.

Q. What States?

A. Illinois, Iowa, Missouri, Minnesota, the Dakotas, Montana, and other States.

Q. And shipped the paper to the purchasers in that territory?

A. Yes.

Q. Since the formation of the General Paper Company has that company handled the sales, made all the sales of your paper?

A. Some of the sales have been made by myself.

Q. Well, generally speaking, that company handled it?

A. Yes sir, generally.

Q. During this time what kinds of paper have you manufactured?

A. We have manufactured what is known as news print and manilla wrapping and fiber wrapping paper?

Q. Have you ever manufactured butchers' fiber?

A. Yes.

Q. During all the time?

A. No.

Q. Did you during part of the time of the existence of the General Paper Company manufacture butchers' fiber?

A. Yes sir, but to a very limited extent.

Q. About when and during what years?

A. I think the first three years.

618 Q. The first three years of the existence of the General Paper Company?

A. Yes, sir.

Q. Have you manufactured wall paper such as is known as hanger paper?

A. Very little, if any. It seems to me we sold one or two carloads, but I wouldn't be positive.

Q. Were you present at the meeting on the 26th of May, 1900, at the organization of the General Paper Company?

A. Yes, sir.

Q. You or your company subscribed for some stock on that day in the General Paper Company, did you not?

A. Either that day or soon after, I am not positive now. We subscribed for some stock.

Q. For the Hennepin Paper Company?

A. Yes sir.

Q. And your company still holds stock in the General Paper Company, does it not, in your name?

A. That is in my name I think.

Q. Now, Mr. Nelson, what office do you hold in the General Paper Company?

A. I am a director.

Q. Have been how long?

A. Since the organization.

Mr. FLANDERS: What office do you hold in the Hennepin Paper Company?

WITNESS: President.

Mr. FLANDERS: And director, I suppose.

WITNESS: Yes sir.

Q. Have you attended many of the meetings of the General Paper Company?

A. Yes, sir.

619 Q. Usually attend them?

A. When convenient I do.

Q. How many directors have you in the General Paper Company?

Mr. FLANDERS: That is all proved.

Mr. KELLOGG: I want to get his knowledge of it.

A. I don't know, sir.

Q. Well, every mill in the company has a director, hasn't it?

A. I think so, yes.

Q. You belong to the executive committee of that company?

A. Yes sir.

Q. Who composes the executive committee?

Objected to as incompetent, irrelevant and immaterial.

A. I don't remember that.

Q. The whole board of the directors?

A. No sir.

Q. Well, do you remember who they are?

A. There were some there—the last meeting—that I didn't know. But I don't remember all of the names. I know that Mr. Bossard here and Mr. McNair and several others—

Q. Well, give us the names of the executive committee, as far as you can.

Objected to by defendants as irrelevant, incompetent, and immaterial.

A. Mr. Kimberly, Mr. George Whiting, Mr. McNair, Mr. Bossard, Mr. Sausenbrenner, Mr. Babcock, Mr. Van Nortwick. The names are all published at our office in Milwaukee, but I don't remember them all now—all of them.

620 Q. How many are there in the executive committee?

A. I don't know. I think there are 24.

Q. Well, then, the entire board of directors constitute the executive committee, doesn't it?

A. I think not.

Q. How many directors have you got?

Mr. FLANDERS: Now this man is testifying from memory, and you have already proved that. You know there are not twenty-four.

Mr. KELLOGG: No, I don't know that.

WITNESS: Maybe it is twenty-four directors and a less number of the executive committee. That is wholly from memory. I didn't think it of sufficient importance to charge my memory with it, and I don't remember it, Mr. Kellogg.

Q. Well, at your executive meetings most of the directors were present, were they not, that you have attended?

Objected to as irrelevant, incompetent and immaterial.

A. Some times a bare quorum, and some times most all of them are there.

Q. How often have you held directors' meetings?

Same objection by defendants.

A. I don't remember.

Q. Quite frequently, stating generally?

Same objection.

A. Sometimes — be once in four or five months, sometimes oftener.

621 Q. Well, you usually attend, do you?

A. If convenient. I haven't attended near all of them.

Q. Are you familiar with the business of the General Paper Company?

A. In a general way.

Q. How often do the executive committee meet?

Same objection by defendants.

A. That was the executive committee that I answered for. The directors don't meet only once or twice a year; they have only had a few meetings, only the annual.

Q. Well, your executive committee is large, is it? That is, you have no small executive committee?

Objected to by defendants as irrelevant, incompetent, immaterial and leading.

A. Why, it is, as I stated, somewhere from 20 to 24.

Q. Is there some one from each one of the defendant mills on the executive committee?

Same objection.

A. My impression is that there is not, Mr. Kellogg.

Q. From every one of the mills?

A. No sir.

Q. But, generally, are they represented?

Same objection.

A. There is one from our mill.

Q. Well, there is one from each mill in Minnesota, isn't there?

Same objection.

622 A. Yes sir.

Q. Can you name any mill that hasn't a member on the executive committee?

Same objection.

A. No, I can not.

Q. Do you know Mr. E. A. Edmonds?

A. Yes sir.

Q. Who is Mr. E. A. Edmonds?

Same objection.

A. He is the general manager of the Rhinelander mill.

Q. What capacity does he hold with the General Paper Company?

A. He is a director.

Q. Have you heard of any other capacity?

A. He is on the executive committee.

Q. Well, now, have you known of his performing any other function or duty than as a member of the board of directors or executive committee of the General Paper Company?

Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial, and I instruct the witness that he need not answer that question.

Q. Do you decline to answer the question?

A. I decline.

Q. I mean any other function or duty in connection with the business of the General Paper Company?

Mr. FLANDERS: I make the same objection, and I give the witness the same advice.

623 Q. Do you decline to answer, Mr. Nelson?

A. I do.

Q. State, if you know, whether the prices received by the various mills have been equalized as to butchers' fiber.

Mr. FLANDERS: I make the same objection and I give the witness the same advice.

Q. You decline to answer?

A. I do.

Q. During the time the General Paper Company has acted as the selling agent of these defendant mills, state whether there has been in existence an arrangement whereby the prices received through the General Paper Company by the defendant mills for butchers' fiber have been equalized as between the mills.

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, and I advise the witness that he need not answer that question.

Q. You refuse to answer?

A. I refuse to answer.

Q. State whether any of the mills not manufacturing butchers' fiber (I mean the defendant mills) have through the General Paper Company compensated those mills manufacturing butchers' fiber for making that class of paper because it was less profitable than other classes of paper.

Mr. FLANDERS: That is objected to as incompetent, irrelevant, immaterial and leading, and I advise the witness that he need not answer that question.

624 Q. Do you know whether any of the defendant mills have been compensated during this time by other defendant mills for making butchers' fiber?

Mr. FLANDERS: Same objection and same advice.

Q. You decline to answer that question?

A. Yes.

Q. Is butchers' fiber a profitable paper to make?

Objected to as irrelevant, incompetent and immaterial.

A. It is not for me.

Q. Is it as profitable as the other grades of paper?

Same objection and as leading.

A. I don't know.

Mr. FLANDERS: Confine your answers to what you know.

Q. You don't know whether it is or not?

A. No, sir.

Q. Have you ever made any payments to any of the mills making butchers' fiber or made any payments through the General Paper

Company to any of the mills making butchers' fiber since the General Paper Company was the exclusive selling agent?

Mr. FLANDERS: That is objected to for the same reasons and I give the witness the same advice.

A. I decline to answer.

Q. Have you received any statements through any officer of the General Paper Company as a basis for any payments to compensate any of the defendant mills for making butchers' fiber?

625 Mr. FLANDERS: I make the same objection and I give you the same advice.

Q. Do you know whether the defendant corporations manufacturing hanger paper have had any arrangement whereby the price was equalized which they received from the General Paper Company?

Mr. FLANDERS: I make the same objection and I give the witness the same advice.

Q. You decline to answer?

A. Yes sir.

Q. Did the defendant corporations manufacturing hanger paper have any arrangement among themselves with the General Paper Company during the year 1904, whereby the General Paper Company allowed each mill a fixed or definite price during that year and the balance received over and above that price by the General Paper Company was distributed to all the defendant companies manufacturing hanger paper on the basis of their average daily output of that grade of paper?

Mr. FLANDERS: I object to that as irrelevant, incompetent, immaterial and leading, and I advise the witness that he need not answer that question.

A. I decline to answer it.

Q. State, if you know, the basis on which the prices to the defendant companies or any of them for hanger paper sold through the General Paper Company was equalized.

Mr. FLANDERS: That is objected to for all the reasons put into the last question, and, as an additional reason, that it assumes
626 a fact not shown in the case and I advise you that you need not answer that question.

Q. Well, was it in any way equalized?

Mr. FLANDERS: I make the same objections to that and I give the same advice.

Q. Did the General Paper Company allow or credit or pay each of the corporations defendant, manufacturing hanger paper, a fixed or definite price for such paper for the year 1904, which price was

the same to all mills manufacturing that grade of paper, and was the balance over and above that sum divided among all the defendant mills manufacturing that grade of paper in proportion to the average daily output thereof?

Mr. FLANDERS: Same objection and same advice.

A. I decline to answer.

Q. Did you ever attend a meeting of the executive committee where that subject was discussed?

Mr. FLANDERS: Same objection and the same advice.

Q. State whether or not at those meetings—any of them—you fixed the price for any definite period to be received by the other mills?

Mr. FLANDERS: Same objection and same advice.

Q. Do you refuse to answer those questions?

A. I will just state, Mr. Kellogg, that I will take the advice of our attorney and refuse to answer any questions that he thinks are not proper for me to answer.

627 Q. Then, you refuse to answer those questions which I have just asked, which you have not answered?

A. Yes.

Mr. KELLOGG: I want the record to show it.

Mr. FLANDERS: It is admitted that all the questions which I have advised him not to answer he has, on my advice, refused to answer.

Q. I ask you the same question as to the equalization of prices, which you have refused to answer, as to the years 1900, 1901, 1902, 1903, and the present year—1905.

Mr. FLANDERS: All previous objections renewed to this question and I give you the same advice.

Mr. KELLOGG: You will not require me to repeat the questions as to each of those years, Mr. Flanders?

Mr. FLANDERS: No. It may be considered that that questions has been put as to each of those years and the same advice is given to the witness and he has refused to answer, each several question.

Q. State, Mr. Nelson, if you know, how the prices are fixed to the defendant mills for news print paper.

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial and assuming a fact not shown to exist, and I advise the witness that he need not answer that question.

Q. Do you decline to answer?

A. I decline.

628 Q. Was there any arrangement between the General Paper Company and any of the defendant mills whereby news print paper was sold to the General Paper Company or by them for

a definite, fixed price during any of the period that that company has been the general agent?

Mr. FLANDERS: Same objection and same advice.

Q. State whether, if you know, that price was less than the final price settled for by the General Paper Company with the defendant mills.

Mr. FLANDERS: Same objection and same advice.

Q. State whether the balance over and above that fixed price was divided among the defendant mills.

Mr. FLANDERS: Same objection and the same advice.

Q. Did the defendant corporations manufacturing news print paper or any grade of paper have any arrangement among themselves with the General Paper Company during any time since the organization of the General Paper Company, whereby the General Paper Company allowed each mill a fixed or definite price during any period, and the balance received over and above that price by the General Paper Company was distributed to all the defendant companies manufacturing any class of paper on the basis of their average daily output thereof?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial and leading, and I give the witness the same advice.

629 A. I decline to answer.

Q. Was there any such arrangement as to news print paper?

Mr. FLANDERS: Same objection and same advice.

Q. Was there any arrangement whereby the General Paper Company, as the general sales agent, equalized the prices received for news print paper among the defendant companies?

Mr. FLANDERS: Same objection and the same advice.

Mr. KELLOGG (to the examiner): You are repeating the witness refused to answer as to each question?

WITNESS: I am taking his (Mr. Flander's) advice explicitly in every case.

Q. I notice the contract which your company made with the General Paper Company provides that the General Paper Company is to receive three per cent. commission on all sales. Do you remember as to that?

A. That is correct.

Q. Did the General Paper Company deduct that commission from your sales?

A. Yes sir.

Q. Did it deduct any more than that?

Mr. FLANDERS: That is objected to as irrelevant, incompetent

and immaterial, and the witness is advised that he need not answer that question.

Q. Did it not, as a matter of fact, in the first instance, deduct all over and above a fixed, definite price?

Mr. FLANDERS: That is objected to for the same reasons, and I give the witness the same advice.

630 Q. What dividends has your company received, or you for your company, on the stock held in the General Paper Company?

Mr. FLANDERS: Same objection and the same advice.

Q. You refuse to answer?

A. Yes.

Q. Have you ever received any dividends from the General Paper Company, or has your company ever received any dividends on the stock it holds in that company?

Mr. FLANDERS: Same objection and the same advice.

Q. Have you attended any meeting either of stockholders or directors of the General Paper Company when the report of the sales agent was presented?

A. Yes, sir.

Q. Does the report of the sales agent show the prices which the General Paper Company paid the mills?

Mr. FLANDERS: That is objected to for the same reasons and the witness is instructed he need not answer that question. And the further objection is made, that the report of the sales agent is the best evidence.

Mr. KELLOGG: Well, the report of the sales agent the witness refused to produce.

Q. Who keeps the report of the sales agent?

Mr. FLANDERS: If you know.

Q. Yes, if you know.

Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial. If you know you can tell him. I don't mean
631 what you have been told, but if you know of your own knowledge.

A. I don't know.

Q. Have you seen them?

A. They are in the office there, but I don't know who has the custody of them.

Q. Have you ever seen them since they were filed, any of them?

Objected to as incompetent, irrelevant and immaterial.

A. Yes, I have seen them.

Q. Have you examined any of them ?

A. Yes sir.

Q. Looked into the figures reported ?

A. Yes sir.

Q. What office did you see them in ?

A. In the General Paper Company's office.

Q. Chicago or Milwaukee ?

A. Chicago, I think it was.

Q. How long since you have seen any of those reports ?

A. I don't remember the last time I looked them over.

Q. Do you usually examine them ?

Objected to as irrelevant, incompetent and immaterial.

A. No, not usually.

Q. Are they sent around (copies) to the officers ?

Same objection by defendants.

A. They are not regularly. If a member calls for a copy I presume he could get it.

Q. Have you ever had a copy of any of them ?

A. No sir.

Q. Have you ever called for a copy ?

A. No sir.

632 Q. How often are they made ?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, and I instruct the witness to confine his answer to his own personal knowledge.

A. I don't know.

Q. Once a year, are they not—as often as that ?

Mr. FLANDERS: Same objection, and as leading. If you know.

A. Maybe oftener.

Q. Maybe oftener ?

A. I don't know.

Q. What is your recollection ?

Same objection.

A. My best recollection is that they are only furnished when a member desires to see them.

Q. No; when are these reports made? How often are they made to the General Paper Company ?

Same objection.

A. There is no stated time.

Q. You have a stated time for your executive meetings ?

A. We have had stated times, and then we have gone four or five months without meetings. Depends on the business that is to come before us.

Q. State whether or not these reports show the basis of the division or equalization, rather, of prices between the defendant companies.

633 Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, leading and assuming a fact not shown in the case, and the witness is instructed that he need not answer that question.

A. I decline to answer.

Q. Have you been present when any of the treasurer's reports have been produced and made to the board of directors?

Objected to as incompetent, irrelevant and immaterial.

A. Yes sir.

Q. Have you examined any of those reports?

A. I don't recall now that I ever went over in detail the reports of the treasurer; I don't think I have.

Q. You have examined them in a general way to know what they contain?

Same objection.

A. Yes sir.

Q. Do they show the profits of the General Paper Company?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, leading and assuming a fact not shown in the case, and I instruct you that you need not answer that question.

Q. Do you refuse to answer?

A. I decline.

634 Q. Have the board of directors, the executive committee, or the stockholders at any time during the time you have been a director of the General Paper Company fixed the price of any grade of paper to be paid to each of the defendant companies by the General Paper Company or through the General Paper Company?

Mr. FLANDERS: That is objected to for the same reason, and I give the witness the same advice.

Q. You refuse to answer?

A. I decline.

Q. State whether or not the executive committee, the board of directors, or the stockholders of the General Paper Company did, during the year 1904, or at any time since the organization of the General Paper Company, fix the price at which the General Paper Company would sell any grade of paper in any community or district or fix a minimum price.

Mr. FLANDERS: That is objected to for all the reasons hereinbefore stated and as not the best evidence, and I give the witness the same advice.

A. I decline.

Q. Have you discussed those prices or fixed any price of paper to be sold for the defendant companies by the General Paper Company as a board of directors or stockholders or as an executive committee?

MR. FLANDERS: All objections renewed, and I give the witness the same advice.

A. I decline.

Q. When did you first hear about the organization of the General Paper Company?

635 Objected to as irrelevant, incompetent and immaterial.

A. At the time it was organized.

Q. Well, you don't mean on the 26th of May, 1900?

A. It was talked of before that in a general way.

Q. How long before?

Same objection by defendants.

A. I don't remember.

Q. You don't remember?

A. No.

Q. Whom did you talk with about it?

Same objection.

A. I don't remember that.

Q. Have you any recollection of having any conversation with anyone about the organization of a paper company or a general selling agent prior to the 26th May, 1900?

Same objection.

A. I do not, at the present time, although I think that I talked with paper manufacturers about it, but I can't recall the times now.

Q. Did you attend any meetings on that subject?

Same objection.

A. I think the 26th of May is the first meeting.

Q. That you attended. Now, who first approached you to get your company to go into the deal, or whatever you call it?

Same objection.

A. I don't remember.

636 Q. You don't remember?

A. No, sir.

Q. You have no recollection about it?

A. No sir, not of the name of the party.

Q. When did you first see the contract that you signed for your company?

Same objection.

A. I think I saw a draft of what was thought of as a contract before that meeting, but it was very materially changed.

Q. Before that meeting?

A. Yes.

Q. And the contract as finally signed was produced at the meeting, was it?

A. Either at the meeting or soon after, I am not sure now which.

Q. Now, Mr. Nelson, was there not during the winter of 1900 or the late fall of 1899 a good deal of talk between the different manufacturers of paper in Minnesota and Wisconsin about organizing a general selling agent or a corporation to handle their products?

Same objection by defendants.

A. Oh, for five or six years before the General Paper Company was organized there was casual talk when we would meet, that it would be well to have some association, as other men had.

Mr. FLANDERS: He didn't ask you what the talk was. He asked you whether you had a talk.

637 A. Well, we had a talk, yes.

Q. You had more or less talk during the winter of 1900, didn't you?

A. A very little talk, Mr. Kellogg, but we did talk about it.

Q. Well, now you talked about organizing a corporation to handle the product, didn't you?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, leading, and as assuming a fact not shown in the case.

A. We talked about cheapening the cost of selling our paper by cutting off traveling men, not having a number of traveling men following each other up.

Q. And eliminating competition?

Mr. FLANDERS: Now wait a minute.

Q. Did you talk about that?

Mr. FLANDERS: Now wait just a minute, Mr. Kellogg and Mr. Nelson. I object to that as irrelevant, incompetent, immaterial, leading, and assuming a fact not shown in the case, and I instruct the witness that he need not answer that question.

A. I decline to answer.

Q. Well, then, I ask you did you talk with any of the gentlemen who represent any of these defendant mills, in the spring of 1900, before the organization of the General Paper Company, about
638 organizing a corporation to act as the general selling agent in order to eliminate competition? Do you refuse to answer the question.

Mr. FLANDERS: Same objection and same advice.

A. I decline to answer it.

Q. Did you attend a meeting in Chicago in March or April, 1900, at which this subject was discussed, with any of the parties representing these defendant companies?

A. I think not.

Q. Do you know Mr. Brocklebank of the Manufacturers Paper Company?

A. Yes sir.

Q. Did you talk with him about it?

Same objection by defendants.

A. I don't remember of talking with Mr. Brocklebank about it at all.

Q. You have been subpoenaed to produce certain books of the Hennepin Paper Company. Have you?

Mr. FLANDERS: That subpoena calls for all the books and papers, practically, that there are in the office of the Hennepin Paper Company. Now, for the purposes of any questions you want to ask, why, they may be assumed to be here, any of them. We would have to hire a train to bring them over.

Q. Where are those books kept?

A. At Minneapolis.

Q. Have you the subpoena that was served on you?

A. Yes sir.

Q. Will you let me take it a moment?

639 Witness hands subpoena to Mr. Kellogg.

Mr. KELLOGG: That will be perfectly satisfactory. Wherever Mr. Flanders directs the witness not to answer, as I understand, and the witness makes no answer, he declines to answer.

Mr. FLANDERS: That is admitted. You may say that the defendants admit that wherever this witness is instructed by the counsel for the General Paper Company and the Hennepin Paper Company and others not to answer the question, that he has followed that advice and declined to answer. That is enough, isn't it?

Mr. KELLOGG: Instructed—you mean advised. You used the words "advised not to answer." You said "instructed." You mean "advised" by the counsel for the General Paper Company?

Mr. FLANDERS: Yes, advised. It is the same thing.

Q. This subpoena, Petitioner's Exhibit 151, was served on you, Mr. Nelson?

A. Yes sir.

Q. Do you remember when?

A. Some day last week; I think about Thursday.

Q. The Hennepin Paper Company keeps its books, you say, in Minneapolis?

A. Yes sir.

Q. At the general offices of the company?

A. Yes sir.

Q. Do those books show the amount, kinds and grades of paper manufactured by the Hennepin Paper Company?

Mr. FLANDERS: That is objected to for all the reasons hereinbefore stated and on the ground that the books are the best evidence, and the witness is instructed he need not answer the question.

Q. Do they show the kinds and grades of paper sold by or through the defendant General Paper Company as the exclusive sales agent of the Hennepin Paper Company, since the 5th day of July, 1900?

Mr. FLANDERS: Same objection and the same advice.

A. I decline to answer.

Q. And do they also show where the said paper manufactured and sold has been shipped since the 5th day of July, 1900?

Mr. FLANDERS: Same objection and same advice.

(No answer.)

Q. State whether those books show the prices, amounts of credit, received for such paper from the General Paper Company between the 5th day of July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the Hennepin Paper Company for any and all of its products so sold by or through the defendant General Paper Company have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the General Paper Company is or has been the exclusive sales agent in any and all of their products and for similar products between the 5th day of July, 1900, and the present time.

Mr. FLANDERS: Same objection, as leading, as assuming facts not shown in the case, and I give the witness the same advice.

Q. Do your books show the amounts and proportion of the earnings or profits of the General Paper Company received by the defendant Hennepin Paper Company from or through the defendant General Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

Q. Do they show the prices received by your company for paper manufactured by it and sold by the General Paper Company?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

Q. Do they show the amount of dividends received from the General Paper Company?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

Q. Do they show the places where the product of the Hennepin Paper Company mill is sold and to what States and Territories shipped?

Mr. FLANDERS: All objections renewed, and I give you the same advice.

Q. What books do you keep in your office? I mean what books of the Hennepin Paper Company?

A. We keep the usual set that is necessary for a manufacturing business of that kind.

Q. Who is your book-keeper?

A. Mr. Young.

642 Q. What is his full name?

A. Ralph J. Young.

Q. Where is his residence?

A. He lives in Minneapolis.

Q. Does he have general charge of the books?

A. Yes sir.

Q. Who are the other officers of the Hennepin Paper Company?

A. Mr. Willis Walker, Mr. Gilbert Walker, and Mr. Edwin Nelson.

Mr. FLANDERS: Tell what offices they hold.

A. Mr. Gilbert Walker is vice-president, Mr. Willis Walker is treasurer, and Mr. Edwin Nelson is secretary.

Q. Do the books, journals or ledgers of the Hennepin Paper Company show any agreement or arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the Hennepin Paper Company upon various grades of paper manufactured by it and sold by or through the defendant the General Paper Company, are and have been, since the 5th day of July, 1900, equalized or the profits arising from the sale of such paper distributed or apportioned as between the defendants?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

(No answer.)

Q. Do you refuse, Mr. Nelson to produce the books?

Mr. FLANDERS: As I said before, you may assume for the purposes of these questions that the books and all the papers called for are present in court, but on behalf of the Hennepin Paper
643 Company and the witness and the General Paper Company I decline to submit those to the inspection of the Government counsel.

Mr. KELLOGG: Or to allow them or any part of them to be put in evidence, Mr. Flanders?

Mr. FLANDERS: Yes.

Mr. KELLOGG: I wish to suspend the examination of this witness and apply to the court to compel the witness to answer. I do not, therefore, desire to complete his examination on all the branches of the case until this matter has been submitted to the court.

Mr. FLANDERS: Well, he is excused for the present, then?

Mr. KELLOGG: For the present, yes.

Petitioner offered in evidence as part of the record of Mr. Nelson's testimony Petitioner's Exhibit 151.

Objected to by defendants as incompetent, irrelevant and immaterial.

Witness excused at this time.

644 A. C. BOSSARD, sworn as a witness on behalf of the petitioner, testified as follows:

Direct examination.

By Mr. KELLOGG:

Q. Mr. Bossard, where do you reside, and what is your business?

A. I reside at Grand Rapids, Minn., engaged in the manufacture of paper.

Q. What company are you connected with?

A. Itasca Paper Company.

Q. What officer are you of that company?

A. I am the treasurer of the company.

Q. Are you the general manager?

A. Well, not the general manager, but manager.

Q. You are the manager?

A. Yes, sir.

Q. You have immediate charge of the business?

A. Yes, sir.

Q. How long have you had such charge of the business?

A. Since the mill was started.

Q. When was that?

A. About three years ago.

Q. The mill was started sometime in 1902?

A. In 1902, yes.

Q. At the beginning of 1902?

A. Yes, in the month of March.

Q. Are you an officer of the General Paper Company?

A. I am not an officer.

Q. Well, are you a director?

A. I am.

Q. Have been since what time?

A. I can't give you the exact date, but since about that time.

645 Q. That is, during the first year that your company manufactured paper you became a director of the General Paper Company?

A. I did.

Q. Well, it appears in evidence (I just want to refresh your memory, there is no objection to my stating it) you were elected a director December 9, 1902. Do you recollect whether that was about the time?

A. I can't give the date, but it was shortly prior to our starting the mill.

Q. It was prior to your starting the mill?

A. Yes.

Q. How is your product handled and sold?

A. It is sold through the General Paper Company.

Q. Has it been since the organization of your company?

A. It has.

Q. And it is today handled that way?

A. It is.

Q. Since about the time that it commenced to handle your product you have been a director of the General Paper Company?

A. Yes, about that.

Q. I don't ask you to state the exact length of time. Have you attended the meetings of the directors?

A. I have.

Q. Of the executive committee?

A. At times, yes.

Q. You are a member of the executive committee?

A. I am.

Q. Have been all the time? I mean all the time since you have been a director?

A. I think so.

Q. How frequently have you attended meetings of the directors or of the executive committee?

A. I hardly know. The first year I don't believe I attended more than one.

646 Mr. FLANDERS: I can't hear you, Mr. Bossard.

WITNESS: During the first year I don't believe I attended more than one, although I am not positive on that point.

Q. Well, since that time have you attended them oftener?

A. I have attended some, and others I have not. I have no record, and don't recall.

Q. But you have had general charge of the management of the Itasca Paper Company?

A. I have.

Q. I notice your contract with the General Paper Company which I show you, being Petitioner's Ex. No. 76, was entered into with the General Paper Company, or rather dated the 5th day of February, 1902. Just look at it and see if that is the contract. (The original is not here, but that is a copy.) Do you think that is correct?

A. I think so.

Mr. Flanders produces original contract.

Mr. KELLOGG: I will show him the original, and we will be sure of it, then.

Q. I show you the original contract and ask you if that is correct, if it was entered into on the 5th day of February, 1902, or about that time.

A. That is correct.

Q. You commenced manufacturing shortly after that, did you?

A. I did.

Q. Has all the product of the Itasca Paper Company been sold by the General Paper Company, since that date?

A. Practically all.

Q. That company is still the general selling agent of your
647 company, is it?

A. It is.

Q. Your company is a stockholder in your name to the extent of thirty shares, is it not, in the General Paper Company?

A. I hold thirty shares, yes, sir.

Q. Well, you hold it for your company, do you not?

A. Yes.

Q. Well, I don't care anything about that; that is admitted, but I just want to call your attention to the fact. You are still in the same position, that is, your company, with the General Paper Company that it has been all the time.

A. Yes, sir.

Q. What grades of paper does your company manufacture?

A. News print.

Q. Exclusively?

A. Exclusively.

Q. What basis of price does the General Paper Company make to your company for the product of your mill?

Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial, and you are instructed that you need not answer that question; or advised that you need not answer.

Q. You decline to answer?

A. I do.

Mr. FLANDERS: You are a stockholder in the Itasca Paper Company, too, aren't you?

WITNESS: Yes, sir.

Mr. FLANDERS: Well, I advise you you need not answer that question.

Q. You decline to answer it, Mr. Bossard?

A. Yes.

648 Mr. FLANDERS: And are you a director of the Itasca Paper Company as well as treasurer?

WITNESS: Yes, sir.

Mr. FLANDERS: And a director of the General Paper Company?

Witness: Yes, sir.

Q. Did the defendant corporations manufacturing news print paper have any arrangement among themselves and with the General Paper Company during the year 1904 whereby the General Paper Company allowed each mill a fixed or definite price during that year and the balance received over and above that price by the General Paper Company was distributed to all the defendant companies manufacturing news print paper, on the basis of their average daily output of that grade of paper?

Mr. FLANDERS: That is objected to as incompetent, irrelevant, immaterial and leading, and I advise you that you need not answer that question.

Q. Did your company have any arrangement with the General Paper Company and the other defendant companies for fixing the price of news print paper?

Mr. FLANDERS: All the objections to the last question renewed, and also as leading and I instruct the witness that he need not answer.

Q. You decline to answer?

A. Yes, under advice of counsel I decline to answer.

Q. Did your company have any arrangement with the
649 General Paper Company and the other defendant companies for fixing the price received by your company and the other companies on news print paper during any of the time while the General Paper Company has been the exclusive selling agent of your company?

Mr. FLANDERS: All objections to the last question are renewed, and I advise the witness that he need not answer.

Q. News print paper is usually sold under long time contracts, is it not?

A. Yes, as far as contracts are obtainable.

Q. The large publishers, I mean, usually enter into time contracts, do they not?

A. As far as I know.

Q. Have you had any arrangement for equalizing those contracts between the defendant companies manufacturing news print paper, during the time the General Paper Company has been the exclusive selling agent of your company?

Mr. FLANDERS: Same objections, and I give you the same advice.

Q. State whether the General Paper Company during this time allowed or paid to your company and each of the other defendant companies manufacturing news print paper a fixed or definite price for such paper, in the first instance, which price is the same to all manufacturing that grade of paper, and whether the balance over

and above that sum was divided among the defendant mills manufacturing that grade of paper in proportion to the average daily output thereof.

Mr. FLANDERS: Same objections, and as leading and assuming facts not shown in the case, and I advise you not to answer
650 that question. You need not answer.

Q. You decline to answer, do you?

A. I do.

Q. Did you have any basis agreed on with the General Paper Company for the division,—or for the equalization of prices?

Mr. FLANDERS: Same objection, same advice.

Q. State whether you ever attended a meeting of the executive committee of the directors or the stockholders at which the price of news print paper, or any other grade of paper, was fixed by the executive committee, or the directors, or the stockholders of the General Paper Company.

Mr. FLANDERS: Same objection and same advice.

Q. You decline to answer?

A. I do.

Q. I mean the price received or to be received by any of the defendant companies for paper manufactured by it and sold through the General Paper Company.

Mr. FLANDERS: Same objection and same advice.

Q. State whether the executive committee, board of directors or stockholders of the General Paper Company, did, in the year 1904, or at any other time since your company has been a member of the General Paper Company, fix the price at which the General Paper Company would sell any grade of paper in any community or district, or fix the minimum price thereof.

Mr. FLANDERS: Same objection and same advice.

Q. This contract with your company provides that the
651 Itasca Paper Company agrees to pay to the General Paper Company a commission of 3 % on all sales effected by the General Paper Company; did your company pay that?

A. Yes, sir.

Q. Anything more than that?

Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial, and I instruct the witness he need not answer that question.

Q. State whether anything more than the 3% was first deducted by the General Paper Company from the price of paper which it sold for your company, during any of this time.

Mr. FLANDERS: Same objection and the same advice.

Q. Has your company received any dividends from the General Paper Company on the stock it holds in that company?

Mr. FLANDERS: Same objection and the same advice.

Q. You decline to answer these questions?

A. I decline to answer.

Q. Have you received any dividends for your company; if so, state how much.

Mr. FLANDERS: Same objection and the same advice.

Q. State whether, in lieu of dividends, all sums over and above a flat price has been distributed among the defendant companies after deducting the expenses of management of the General Paper Company.

Mr. FLANDERS: Same objection and the same advice.

Q. Was a subpoena served on you, Mr. Bossard?

A. There was.

Q. Have you got it here?

A. I haven't it here.

652 Mr. KELLOGG: Mr. Olds will you get the original subpoena.

Mr. OLDS: I have got a copy of that here.

Mr. KELLOGG: Well, I would like the original.

Q. That subpoena was served on you to produce the books of the Itasca Paper Company.

Mr. KELLOGG: Mr. Flanders do you make the same statement?

Mr. FLANDERS: Yes; for the purposes of any question which the counsel for the Government see fit to make it may be assumed that all the books, papers and documents referred to in the subpoena are present in court.

Q. Where are those books kept, Mr. Bossard?

A. At the general office of the company.

Q. Where is the general office?

A. In Grand Rapids, Minn.

Q. Do the books of the company show the amount of paper manufactured by the Itasca Paper Company?

Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial, on the ground further that the books and papers are the best evidence, and I advise the witness that he need not answer that question.

Q. Do they show the kinds and grades of paper manufactured by your company?

Mr. FLANDERS: Same objection and same advice.

Q. Do those books show the amount, kinds and grades manufactured by your company and sold by or through the General Paper Company as the exclusive sales agent of the defendant, Itasca Paper Company, since the date of the contract by which it is made the general sales agent, and also show where the said paper is sold and into what territory shipped?

Mr. FLANDERS: Same objection and same advice.

Q. Do these books show the prices, amounts and credits received for such paper from the General Paper Company, since the General Paper Company has been the exclusive sales agent of your company?

Mr. FLANDERS: Same objection and same advice.

Q. You refuse to answer?

A. I do.

Q. Do they show the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received by the defendant Itasca Paper Company, for any or all of its products so sold by or through the defendant General Paper Company have been equalized?

Mr. FLANDERS: Same objection and the same advice.

Q. Do they show the way the prices have been equalized with the amounts received by other defendant companies for which the General Paper Company is the exclusive sales agent?

Mr. FLANDERS: Same objection and the same advice.

Q. Do they show the net amount received by your company for all paper sold by the General Paper Company?

Mr. FLANDERS: Same objection and same advice.

Q. Do those books show the amounts and proportions of the earnings and profits of the General Paper Company received by the defendant, Itasca Paper Company, from or through the defendant, General Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of February, 1902, and the present time?

Mr. FLANDERS: Same objection and the same advice.

Q. Do the books, including the journals, ledgers and other books kept by the Itasca Paper Company show the agreement, arrangement or understanding, under and pursuant to which and the manner in which the prices and amounts realized by the defendant, Itasca Paper Company, upon the various kinds and grades of paper manufactured by it and sold by or through the General Paper Company are and have been since the 5th day of February, 1902,

equalized, or the profits arising from such paper distributed or proportioned as between the said defendant, The Itasca Paper Company and the other defendants manufacturing and selling through the defendant, General Paper Company, similar kinds or grades of paper.

Mr. FLANDERS: Same objection and advice, and objected to also as leading.

Q. Your company keeps a set of books, does it not?

A. Yes, sir.

Q. Who is your bookkeeper?

A. Mr. Becker.

Q. What is his first name?

A. H. G.

Q. Where does he reside?

A. At Grand Rapids, Minn.

655 Q. H. G. Becker did you say?

A. Yes, sir.

Q. Is he the secretary of your company also?

A. He is.

Q. And you are the treasurer?

A. Yes, sir.

Q. Do you decline to produce the books, Mr. Bossard?

Mr. FLANDERS: For the purposes of this question the books and papers are assumed to be here. Now we decline to submit the same or any portion thereof to the inspection of the attorneys for the Government.

Mr. KELLOGG: We desire to introduce these books in evidence to show the substance of the demand repeated by me in the question as to what the books show.

I offer in evidence Petitioner's Ex. 152 as part of the record of this witness.

Q. Is that the subpoena served on you, Mr. Bossard?

Mr. FLANDERS: Well, you say it is the original, and we admit it is.

Mr. KELLOGG: It is admitted, and I offer the same with the return of the marshal thereon as part of Mr. Bossard's examination.

Now, as to all questions which I have asked of Mr. Bossard and which you have advised him not to answer, it is understood, is it, that he declines to answer?

Mr. FLANDERS: On the advice of counsel he has declined to answer that question which I have advised him not to.

Q. Well, you so decline, do you?

A. Yes, sir.

656 Mr. KELLOGG: Now I desire to suspend the examination of Mr. Bossard until I apply to the court to compel the witness to answer these questions and produce the documents.

Mr. FLANDERS: But you excuse him now until he is recalled?

Mr. KELLOGG: Yes, sir.

Mr. FLANDERS: You can go now until you are told to come back again.

657 CLARENCE I. MCNAIR, sworn as a witness on behalf of petitioner, testified as follows:

Direct examination.

By Mr. KELLOGG:

Q. Mr. McNair, where do you reside?

A. At Cloquet, Minn.

Q. What is your business?

A. A paper manufacturer.

Q. What company are you connected with?

A. The Northwest Paper Company.

Q. One of these defendants?

A. Yes, sir.

Q. How long have you been connected with that company?

A. Since its organization in 1898.

Q. In 1898?

A. In 1898, yes, sir.

Q. What office do you hold in that company?

A. General manager.

Q. Are you also a director?

A. I am.

Q. Are you a stockholder?

A. I am.

Q. Have you been a stockholder, a director and general manager ever since its organization?

A. Since its organization.

Mr. FLANDERS: Do you hold any other office in it, Mr. McNair?

WITNESS: No, sir.

Q. You are also a director of the General Paper Company, are you not?

A. I am.

Q. Have been how long?

A. I will have to state about the 1st of May, 1902; just the exact date I can't recall. It is about that date.

658 Q. Well, that is about the time that your company entered into a contract with the General Paper Company, making it its exclusive selling agent?

A. It is.

Q. (Producing original contract.) I show you complainant's Exhibit No. 79, a contract between the Northwest Paper Company and the General Paper Company. Please look at the date of it and

see if that is about the time your company entered into that contract?

A. Yes, sir.

Q. April 8, 1902. Has the General Paper Company been the exclusive selling agent of your company ever since that date?

A. About that.

Q. About when did it commence to handle your product?

A. My recollection is it was about the 1st of May, Mr. Kellogg.

Q. 1st of May, 1902?

A. The 1st of May, 1902, yes, sir.

Q. The contract has been renewed, I believe?

Mr. FLANDERS: Yes, it has been renewed.

Q. For a period of five years from July 5, 1905?

A. Yes, sir.

Q. So that that company is now acting as the general sales agent of your company?

A. Yes, sir.

Q. Now, how long after you signed this contract, or your company did, was it before you attended a meeting of the board of directors or executive committee of the General Paper Company?

A. My recollection is it was soon after that date, but I——

Q. You immediately commenced to participate in the management as a director of the General Paper Company?

659 A. I was a director of the General Paper Company.

Q. Attended meetings?

A. I have attended several meetings, yes, sir.

Q. Are you a member of the executive committee?

A. I am.

Q. Have been since you were a director?

A. I am not positive, but it was at least soon after.

Q. Who constitute the executive committee?

Mr. FLANDERS: If you know.

A. Well, I doubt if I could mention all the names, but probably I could mention most of them, if you desire.

Q. Well, mention those that you know that constitute the executive committee.

A. Mr. George A. Whiting, Mr. B. F. Nelson, A. C. Bossard, L. M. Alexander, Frank Garrison, Thomas E. Nash, C. A. Babcock, F. D. Sensenbrenner, W. L. Edmonds, E. A. Edmonds, W. L. Davis.

Q. J. S. Van Nortwick?

A. They were just the names I was hesitating about; I am not positive as to which.

Q. Well, one of the Van Nortwicks?

A. I think so; I am not positive as to either or which.

Q. How as to A. M. Pride?

A. I think so, Mr. Kellogg. I am not positive.

Q. W. Z. Stuart?

A. I shall have to answer the same way ; I don't know whether Mr. Stuart is a——

Q. C. W. Howard ?

A. And the same with Mr. Howard . I am uncertain as to those names I have not mentioned.

660 Q. How many are there in the executive committee ?

Mr. FLANDERS : That is objected to as irrelevant, incompetent and immaterial. You may answer, if you know.

A. I don't remember the exact number that constitute the executive committee. It is somewhere in the vicinity of 20 to 22 or 23, but how many I don't know.

Q. Well, a representative of each mill, is it not ?

A. I am not positive as to that ; I can't answer that question positively.

Q. Do you know any one of the mills defendants that has not a member of the executive committee ?

Same objection by defendants.

A. No, I can't positively state that. The same names that I was uncertain about I should have to include in that answer, Mr. Kellogg.

Q. Well, generally speaking, the entire board of directors is the executive committee, isn't it ?

Mr. FLANDERS : That is objected to as leading, suggestive, and as not in accordance with the facts.

A. I don't believe I can answer that question definitely for the same reasons I have given, I am uncertain about those mills that you mentioned to me. I have tried to give the names as I have them.

Q. Well, you have met most of these gentlemen at executive meetings ?

A. Yes, sir.

Q. Who calls the executive meetings ?

661 Mr. FLANDERS : That is objected to as irrelevant, incompetent and immaterial.

A. Usually, well the proper officials of the——

Q. Well, who has called it, as you recollect ?

A. Mr. Alexander, as secretary, has called meetings, at times.

Q. Has Mr. Stuart called meetings,—W. Z. Stuart ?

Mr. FLANDERS : Same objection.

A. I don't remember of any that he has called.

Q. Where have you usually met ?

A. At Chicago, usually.

Q. What grade of paper does your mill manufacture ?

A. The large portion of our product is news print paper.

Q. What else do you manufacture?

A. A small quantity of poster paper, some grades of white wrapping paper.

Q. Manufacture any hanger paper?

A. Very seldom.

Q. Have you manufactured any during the time the General Paper Company has acted as your general sales agent?

A. I think not; I am very sure not.

Q. Do your books show what you manufacture?

Mr. FLANDERS: Same objection, and I advise the witness he need not answer. All the objections made to similar questions renewed.

Q. Do you decline to answer?

A. On the advice of the attorney I decline to answer.

Q. Do you make any fibre paper?

A. No, sir.

Q. Then you have never manufactured any butchers' fibre?

A. I don't remember of our having,—no I am very sure we have never made any.

Q. Do you know Mr. E. A. Edmonds?

A. Yes, sir.

662 Q. He is formerly of the Falls Manufacturing Company.

A. Yes sir.

Q. Been a director of this company ever since you have, hasn't he,—in the General Paper Company?

A. I think so.

Q. He is now with the Rhinelander Paper Company, isn't he?

A. Yes sir.

Q. He is still a director?

A. In the General?

Q. In the General Paper Company.

A. Yes sir.

Q. Did you ever hear of his acting as a clearing agent or pool agent to equalize the prices of butchers' fiber among any of the defendant mills?

Objected to as irrelevant, incompetent, immaterial and calling for hearsay evidence, and the witness is advised that he need not answer the question.

A. Upon the advice of the attorney I decline to answer.

Q. Well, do you know of his having performed any other function for the General Paper Company than that of a director?

Mr. FLANDERS: Same objection and the same advice.

A. Same reply.

Q. Do you know whether any of the defendant companies during any of the time which your company has been connected with the General Paper Company, paid through the General Paper Company to the companies making butchers' fiber any

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money to compensate those companies, or any of them, for making such butchers' fiber because it was less profitable to make?

Objected to by defendants as irrelevant, incompetent, immaterial, leading, and I advise the witness he need not answer that question.

A. Same reply.

Q. Has your company, or any one for your company, sent any checks or made any payments to E. A. Edmonds, as pool agent, to be divided up among the mills making butchers' fiber?

Same objection and same advice.

A. Same reply.

Q. Has your company received any statements through any officer or agent of the General Paper Company showing or purporting to show the amount to be paid by your company to compensate other companies in this combination for making butchers' fiber?

Mr. FLANDERS: Same objection, and also as assuming facts not shown in the case, assuming that a combination exists that has not been shown in the case, and I advise the witness that he need not answer that question.

664 A. Same reply.

Q. Have you discussed the subject of equalizing the prices on butchers' fiber at any of the meetings you have attended of the General Paper Company?

Mr. FLANDERS: Objected to for all the reasons hereinbefore stated and I give you the same advice.

A. Same reply.

Q. Has the executive committee fixed the price to be received by all the defendant companies manufacturing butchers' fiber?

Same objection and same advice.

A. Same reply.

Q. Do you know whether the price received by any of the defendant mills manufacturing butchers' fiber has been equalized through the General Paper Company?

Same objection and same advice.

A. Same reply.

Q. How did you sell your news print paper prior to the time you made the General Paper Company your exclusive selling agent?

A. In various ways. The large portion of the sales of our product fell on myself, although I employed others.

Q. The company sold it through its own agents?

A. Largely, yes sir.

665 Q. Did you visit the purchasers of paper and solicit orders?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I have done so.

Q. You have visited the publishers of papers in these cities, in St. Paul and Minneapolis, prior to that time and solicited orders, haven't you?

Mr. FLANDERS: Same objection, and as leading.

A. I have.

Q. Since the General Paper Company has acted as your exclusive selling agent, what basis, if any, has been used for the sale of the product of your mill?

Mr. FLANDERS: Objected to for all the reasons hereinbefore stated, and the witness is instructed that he need not answer.

A. I decline to answer upon advice of attorney.

Q. State whether or not any basis has existed whereby all of the mills manufacturing that grade of paper have, through the General Paper Company, equalized the prices each company has received?

Mr. FLANDERS: All objections renewed and I give you the same advice.

A. Same reply as to the last question.

Q. State whether or not any basis has existed whereby the
666 prices have been equalized or approximately equalized.

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same reply.

Q. What has been the basis for the distribution of the contracts made with publishers by the General Paper Company among the several defendant manufacturers?

Mr. FLANDERS: All objections heretofore made renewed, and the further objection that it assumes a fact not shown in the case, and I give the witness the same advice.

A. Same reply.

Q. How have the contracts entered into by the General Paper Company for the sale of news print paper been apportioned among the various defendant mills?

Mr. FLANDERS: All objections renewed and I give the witness the same advice.

A. Same reply.

Q. State whether or not the defendant corporations manufacturing news print paper have during the time your company has been connected with the General Paper Company, had any agreement among themselves and with the General Paper Company whereby the General Paper Company allowed each mill a fixed or definite price and the balance over and above that price was divided among

the defendant companies manufacturing news print paper on the basis of the daily output of that grade of paper.

667 Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same reply.

Q. Has any such arrangement existed as to hanger paper?

Mr. FLANDERS: All objections renewed and I give the witness the same advice.

A. Same reply.

Q. You know what hanger paper is, do you not?

A. I do.

Q. It is a fiber paper, isn't it?

A. That question is misleading. All paper is fiber paper. If you mean by that that it is a paper with much fiber in it, it is not.

Q. Well, what is it, then?

A. Hanger paper is wall paper, in other words.

Q. Yes, it is the paper that is used for manufacturing wall paper, isn't it?

A. Yes sir.

Q. Well, do you know of any arrangement having existed between any of the defendant companies whereby a fixed or flat price for hanger paper has been made to the General Paper Company and the balance divided up between the mills making that grade of paper?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same reply.

Q. Has the board of directors, the executive committee, or the stockholders at any time when you have been present fixed
668 the price of any grade of paper sold for the defendant companies through the General Paper Company?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same reply.

Q. Or fixed the price at which the paper should be sold in any community or district, or the minimum price?

Same objections by defendant, and the witness given the same advice.

A. Same reply.

Q. Has your company and the other defendant companies manufacturing newsprint paper received, in the first instance, from the General Paper Company, a fixed and definite price, and the balance over and above that price which was received by the General Paper Company divided among all the mills on any basis?

Same objection by defendants, and the witness given the same advice.

A. Same reply.

Q. Does your company keep books showing the amount of paper manufactured?

Mr. FLANDERS: Why don't you leave out the last clause?

Q. Well, does your company keep books?

A. It does.

Q. Was a subpoena served on you to produce the books of
669 this company?

Mr. FLANDERS: I have got that subpoena, Mr. Kellogg. (To the witness:) You answer that, yes.

A. It was, Friday. Do you want the time?

Mr. KELLOGG: Oh, I have no objection. This shows the date.

A. 10:55 a. m. Friday last, July 20th, I guess it was.

Q. I show you subpoena marked Petitioner's Exhibit 153. Is that the subpoena?

A. I presume it is.

Mr. FLANDERS: We admit that is the subpoena; and for the purposes of any question the Government counsel see fit to ask it may be assumed that all the books, papers and documents therein described are present here in court.

Mr. KELLOGG: And as to this witness, and the others preceding, the matter may stand the same as though they had been produced in court.

Mr. FLANDERS: Precisely. And we decline to submit them to the inspection of the Government counsel. I have made that statement with reference to every witness.

Mr. KELLOGG: Yes, but I want that to appear.

Q. State whether those books show the amounts, kinds or grades of paper manufactured by the defendant Northwest Paper Company and sold by or through the defendant General Paper Company as the exclusive sales agent of the defendant Northwest Paper
670 Company since the 8th day of April, 1902, or since about the 1st of May, 1902, if that is the date the business commenced.

Same objections by defendants, and the witness given the same advice.

Q. You decline to answer?

A. I decline on advice of attorney.

Q. Do the books also show where the said paper so manufactured was sold and into what States and Territories it was shipped since the 8th day of April, 1902, or the 1st day of May, 1902?

Mr. FLANDERS: I wish to make the same objections, and I give the witness the same advice.

A. Same answer.

Mr. FLANDERS: And I also include in in the objection to this question and the last that the books are the best evidence.

Q. Do they show the prices, amounts or credits received from such paper from the defendant The General Paper Company during said dates?

Mr. FLANDERS: All objections renewed and the same advice given.

A. Same answer.

Q. Do they show the manner in which the prices received or realized by the defendant Northwest Paper Company for any and all of its products so sold by or through the General Paper Company have been equalized with the prices and amounts received and realized by all other defendant companies for like grades of paper during the same time?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same answer.

Q. Do they show the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the Northwest Paper Company from or through the defendant General Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, during said time?

All objections renewed by defendants, and the same advice given.

A. Same answer.

Q. Do the books, including the journals, ledgers and other books kept by the Northwest Paper Company show any agreement, arrangement or understanding under and pursuant to which or the manner in which the price and amounts realized by the defendant Northwest Paper Company upon various kinds and grades of paper manufactured by it and sold by or through the General Paper Company, since the 8th day of April, 1902, have been equalized or the profits arising from the sale of such paper distributed or apportioned as between the defendant Northwest Paper Company and the other defendants manufacturing and selling through the defendant General Paper Company similar grades of paper?

672 Mr. FLANDERS: All previous objections renewed; also objected to as leading and assuming facts not shown in the case, and I give the witness the same advice.

A. Same answer.

Mr. KELLOGG: I desire to use these books and to offer them in evidence to show the foregoing matters which I have asked the witness about.

Mr. FLANDERS: We decline to submit them to your inspection.

Q. What dividends has your company received from the General Paper Company?

Mr. FLANDERS: All previous objections renewed, and I give the witness the same advice.

A. I decline to answer upon the advice of counsel.

Q. Have you received any dividends for your company on the stock of the General Paper Company?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same answer.

Q. The contract provides that the General Paper Company shall deduct 3 per cent. of the gross sales as a commission; has the General Paper Company done that?

A. I think it has in probably all instances. I am not positive of that answer.

Q. Has it deducted any more than that sum in the first instance?

673 Mr. FLANDERS: All objections renewed, and the witness is advised that he need not answer.

A. I decline to answer upon the advice of counsel.

Q. Has any sum beyond 3 per cent. deducted by the General Paper Company from the sales made by it for any of the defendant companies, been distributed among all the mills defendant in this case?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice.

A. Same answer.

Q. Have you ever been present when the report of the sales agent has been produced?

Mr. FLANDERS: All objections renewed, and I give the witness the same advice,

A. Same answer.

Q. Have you ever examined the sales agent report of the General Paper Company?

A. I have more especially to note——

Mr. FLANDERS: The question is whether you have examined it.

A. Well, in answering that: I never have examined it thoroughly, in detail.

Q. You have examined it?

A. I have.

Q. How often have you been present at meetings of the executive committee, stockholders or directors of the General Paper Company when reports have been presented?

674 Objected to by defendants as irrelevant, incompetent and immaterial.

A. Oh, it would be difficult to answer how many times. The report has been presented, portions, at several meetings, and in detail very rarely I should say.

Q. Does that report show the price received by each of the mills for paper sold by the General Paper Company?

Mr. FLANDERS: All previous objections, including the objection that the report is the best evidence, are renewed, and I instruct the witness that he need not answer that question.

A. I decline to answer, upon the advice of counsel.

Q. Have you ever seen the treasurer's reports?

A. I have.

Q. Have copies of them been distributed to you?

A. They have.

Q. Are they distributed every year?

A. I think they are.

Q. Have you any copies of the report?

Mr. FLANDERS: Objected to for the same reasons and the witness is instructed that he need not answer the question.

A. I decline to answer, on the advice of counsel.

Q. Does the treasurer's report show the gross and net earnings of the General Paper Company?

Mr. FLANDERS: All previous objections renewed, including the objection that the report is the best evidence and I instruct the witness that he need not answer that question.

675 A. I decline to answer on the advice of counsel.

Q. Will you produce the copies of the reports which you have?

Mr. FLANDERS: We decline to submit them to the inspection of the Government counsel. (To the witness:) You adopt my statement on that, do you?

A. I decline, on the advice of counsel.

Mr. KELLOGG: For the purposes of this case I suppose they may be considered before the examiner?

Mr. FLANDERS: Yes.

Q. Do those reports show the total sum distributed to the defendant mills by the General Paper Company, either as dividends or as earnings or surplus of any kind?

Mr. FLANDERS: All objections renewed, including the objection

that the report is the best evidence, and I instruct the witness that he need not answer that question.

A. I decline to answer on advice of counsel.

Q. When did you first hear of the subject of the organization of the General Paper Company to act as general sales agent?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. Sometime before its organization. That is, not long before.

Q. In the spring or winter of 1900?

A. I would say the latter part of the winter or early spring, not far from that time.

676 Q. Did you attend any meeting of the paper manufacturers in Chicago where this was discussed?

A. I did.

Q. Where was the meeting held?

A. My recollection is the meeting was held (that I attended) at the Auditorium hotel?

Q. Was that in March, 1900?

A. I am not positive as to that date.

Q. About that time?

A. It was about that time, I think.

Q. Do you remember any of the gentlemen who were present?

A. Yes sir.

Q. Name some of them?

Objected to as irrelevant, incompetent and immaterial.

A. Well, it was about the same names as I have given in the beginning of my testimony. I am quite sure all were not there?

Q. J. A. Kimberly there?

A. I am not positive whether Mr. Kimberly was present.

Q. H. Babcock?

A. I think not.

Q. Mr. Sensenbrenner?

A. I think so.

Q. Mr. C. W. Howard?

A. I am not positive.

Mr. FLANDERS: Same objection to all these questions.

Q. L. M. Alexander?

A. I am not positive whether Mr. Alexander was there.

Q. Mr. T. E. Nash?

A. I shall have to say I think so. I am not positive as to any of these names?

Q. Generally speaking, the men that you named over here
677 in the first instance were present?

A. Portion of those names.

Q. Was George A. Whiting there?

A. I am very sure Mr. Whiting was there.

Q. C. A. Babcock?

A. I am quite sure Mr. Babcock was there.

Same objection by defendants.

Q. Harmon?

Same objection by defendants.

A. I think so.

Q. Mr. B. F. Nelson there?

A. I am not positive.

Q. W. L. Davis or D. R. Davis?

A. D. R. Davis was there, I am very sure.

Q. D. R. Davis at that time was with the Dells Paper Company?

A. Yes, sir.

Q. A. M. Pride?

A. I would say not. I am not positive.

Q. E. A. Edmonds?

A. I am not sure.

Q. Was Mr. Brocklebank there?

A. He was not present at any time I was there.

Q. Now, was that the first meeting you attended?

A. I think so, Mr. Kellogg.

Q. Did you attend other meetings after that and before the organization of the General Paper Company?

A. Yes sir.

Q. Several, did you?

A. Well, I don't remember whether it was two or three.

Q. Two or three more?

A. Yes sir.

Q. In Chicago?

A. My recollection is it was one in Chicago after that.

678 Q. One in Chicago after this first one?

A. Yes sir.

Q. And the other two—

A. No, that would make two.

Q. How many more were there?

A. I think there was one other meeting at Appleton—yes, I am pretty sure there was. I think it was three, but I should have to consult some record before this would be considered absolute testimony.

Q. Have you got any memorandum showing what meetings you attended?

A. I am not sure, but I think so.

Q. What memorandum have you got?

A. I think I could consult an old diary or perhaps mill record.

Q. Will you please do so?

A. I can't today.

Q. I know, but I mean will you do so at the first opportunity?

Mr. FLANDERS: He lives 100 miles from here.

WITNESS: 140 miles from here.

Mr. KELLOGG: I know it, but there will be some future examination.

WITNESS: I am not sure that I have such record. I am trying to answer your question as well as I can.

Q. Would those records state the gentlemen present?

A. They would not.

Q. But, generally speaking, were these men you have named present—some of them?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial and already asked and answered twice, and as calling for the opinion of the witness. The witness has already stated he could not state who was there.

Q. Let us get the Appleton meeting. About when was that Appleton meeting?

A. My recollection is there was a meeting at Appleton after that Chicago meeting. It may have been before, but that is my recollection.

Q. It was during the winter or spring of 1900, was it?

A. I think so.

Q. Now, can you remember who was present at Appleton?

A. No, I can't; simply a portion of those names.

Q. These men present were among the principal manufacturers of paper in the country, were they not?

Mr. FLANDERS: All objections renewed, and calling for the opinion of the witness.

A. They were paper manufacturers.

Q. What subject was discussed at these meetings?

Mr. FLANDERS: All objections renewed.

A. The question of a commission company, selling agency.

Q. Of organizing one?

A. It was discussed. I don't remember that I was ever present at a meeting when the organization of such a company was really determined upon or seriously considered. It was a matter of discussion only.

Q. It was discussed?

A. During my presence at least.

Q. It was discussed at the various meetings, was it?

680 A. The meetings were called for the consideration and discussion of that and trade matters in general. Other matters came up, matters of technical interest to the trade.

Q. Now, who invited you to go to the first meeting that you attended in Chicago?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. I don't remember, Mr. Kellogg, who issued these invitations.

Q. Well, how did you happen to go?

A. Upon invitation, but who issued them I don't remember.

Q. Upon invitation?

A. I assume so. I went.

Q. Well, now, do you remember of any meeting in which the subject was discussed of procuring the Manufacturers Paper Company to act as the general sales agent?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I attended no such meeting.

Q. Did you ever discuss it with any of these defendant companies or the officers of these defendant companies?

Same objection by defendants.

A. Never at any meeting at which I was present, nor did I ever hear of such discussion.

Q. Never heard of it?

A. No, I did not.

Q. Now state whether there was a good deal of discussion as
681 to organizing a general selling agency prior to its organization?

Objected to by defendants as irrelevant, incompetent, immaterial, leading, and calling for the opinion of the witness.

A. It is a pretty difficult question to answer. As I stated, the discussion was on that line, and at the few meetings I attended I assume not only was there discussion of a general selling agency, but branched off on other matters of technical importance, some of which I was very much interested in.

Q. You refused to join the General Paper Company in the first instance, didn't you?

A. Well, I don't understand that question exactly.

Q. You were asked by Mr. Whiting and others to make the General Paper Company your exclusive selling agent in the spring of 1900, were you not?

Mr. FLANDERS: That is objected to as incompetent, irrelevant and immaterial, and you are instructed that you need not answer that question.

A. I decline to answer on the advice of the attorney.

Q. Is it not a fact that several times during the spring of 1900 or the winter of 1900, Mr. George A. Whiting, afterwards the vice-president of the General Paper Company, asked you to join or have your company join the combination and make the General Paper Company its exclusive selling agent?

682 Mr. FLANDERS: Same objection and same advice.

Q. Do you decline to answer?

A. I decline to answer on the advice of the attorney.

Q. And you declined so to do, until the spring of 1902?

Mr. FLANDERS: Same objection and same advice.

A. Same answer.

Q. Were any threats made against you or your company to induce you or it to become a member of this combination and make the General Paper Company its exclusive selling agent?

Mr. FLANDERS: All previous objections renewed and the same advice given.

A. Same answer.

Q. Is it not a fact that officers of the General Paper Company, in the spring of 1902, threatened to undersell you and ruin your business if you didn't become a member and join the combination and make the General Paper Company the exclusive selling agent of your company?

Mr. FLANDERS: All previous objections renewed and the same advice given.

A. Same answer.

Q. As a matter of fact, did they not undertake to underbid you and run you out of St. Paul and Minneapolis contracts?

Mr. FLANDERS: All previous objections renewed and the same advice given.

Mr. KELLOGG: In 1901.

683 A. Same answer.

Q. Did you exact any promise from the officers of the General Paper Company at the time you made that company the general selling agent of your company to protect your customers against exorbitant prices?

Mr. FLANDERS: Same objection and same advice.

A. Same answer.

Q. You had contracts with the Duluth News-Tribune and the Duluth Herald from 1900 to 1903, did you not?

A. Not all of that time, I think, but a good portion of it.

Q. 1900, 1901 and 1902, you had contracts with the Duluth News-Tribune and the Herald, did you not?

A. There was a time, I think, during that time we did not, as I remember it.

Q. Did you have any agreement or understanding with the officers of the General Paper Company prior to the time that your company made that company its exclusive selling agent that they would keep out of Duluth and not bid for the contracts of the Tribune and the Herald?

Mr. FLANDERS: Same objection and same advice.

A. I will not answer, upon the advice of counsel.

Q. Do you know Mr. Conde Hamlin of the Pioneer Press?

A. I do.

Q. Mr. A. C. Weiss of the Duluth Herald?

A. I do.

Q. Mr. Mile Bunnell of the Duluth News-Tribune?

A. I do. I know them all.

684 Q. Did you have any conversations with them during the years 1900 and 1901 and 1902, before you made the General Paper Company your exclusive selling agent, about going into that combination?

Mr. FLANDERS: Same objection, and for the further reason that no proper foundation has been laid, and I give the witness the same advice.

A. I will not answer, upon the advice of the attorney.

Q. About during the time you were negotiating with the General Paper Company to make it the exclusive selling agent of your company did you have a conversation with either one of these gentlemen on that subject?

Mr. FLANDERS: All previous objections renewed and the same advice given.

A. Same answer.

Q. Did you have a conversation with Mr. Mile Bunnell immediately after you had made your contract with the General Paper Company?

Mr. FLANDERS: All previous objections renewed and the same advice given.

A. Same answer.

Q. Did the officers of the General Paper Company bring pressure to bear upon your company to go into the combination, in 1901, or to keep the prices up if you stayed out?

Mr. FLANDERS: All previous objections renewed, and including also the objection that it calls for the witness' opinion, and
685 the same advice is given.

A. I decline to answer on advice of attorney.

Q. Where do you sell your news print paper?

Objected to as irrelevant, incompetent and immaterial.

A. In Indiana, Illinois to a limited extent, some in Iowa, Minnesota, Dakota, Montana, occasionally on the Pacific coast.

Q. Where did you sell it before you became a member of this combination?

Mr. FLANDERS: Same objection, and as assuming that there is a combination, of which there is as yet not a particle of evidence.

Mr. KELLOGG: Well, we will see about that.

A. Leaving out the word "combination," practically the same territory.

Q. The product is shipped to the consumer, is it not?

A. Our product was not entirely shipped to the consumer; we sold to jobbers as well as to the consumer,—answering it in that way.

Q. Yes, that will explain it; that is all right. Part of your product is shipped to the consumer and delivered to him at his place of business in other States, is it?

A. Yes sir.

Q. And has always been?

A. It has.

A recess was here taken until 2 p. m.

686 CHARLES W. HORNICK, sworn as a witness on behalf of the petitioner, testified as follows:

Direct examination.

By Mr. OLDS:

Q. Mr. Hornick, from about November, 1899, until February of this year, you were the secretary and manager of the St. Paul Dispatch?

A. I was, of the Dispatch Printing Company publisher of the St. Paul Dispatch from October, 1899, to March 1, 1905.

Q. Did you during that time have charge of the purchase of news print paper consumed by the Dispatch Printing Company?

A. Yes, sir.

Q. Do you know what price was being paid by the Dispatch for its news print paper, at the time you became secretary and manager in the fall of 1899?

A. Yes sir.

Q. What was it?

A. \$1.85 per 100 pounds, less 3 per cent. cash discount; about \$1.79½ net, which was for the net weight of paper that went through our presses.

Q. What do you mean by the net weight of paper that went through your presses? What other deduction did you have to make?

687 Mr. FLANDERS: That is objected to as irrelevant, incompetent and immaterial.

A. We were allowed the weight of wrappers and strings and cores. The paper was carted at the expense of the mill and put down in our basement without charge to us. They even carted the white waste and empty cores from our basement to the depot to return them, and all white waste was returned at the full price.

Q. After you became manager of the company, when did you make your first contract with the defendant General Paper Company?

A. In April, 1901.

Q. That was the first contract you made with the defendant The General Paper Company?

A. Yes, sir.

Q. Have you that contract, Mr. Hornick?

A. I have not. It is a typewritten document; I remember it well; signed by Mr. Babcock.

Q. I show you Petitioner's Exhibit 133; is that the contract?

A. Yes sir, this is the contract.

Q. Who represented the General Paper Company when you made this contract?

A. Mr. Babcock?

Q. Anybody else?

A. Mr. D. R. Davis, the president of the Dells Paper & Pulp Company who has since died, was with him.

688 Q. What Mr. Babcock was that? What were his initials, do you know?

A. I don't remember. I didn't look at the initials on the contract. I knew Mr. Babcock well, had known him for some years.

Q. Any other bidder for this contract at that time?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. Yes sir.

Q. Who was the other bidder?

Same objection by defendants.

A. The Northwest Paper Company, of Cloquet, Minn., through their broker-, Wright, Barrett & Stillwell of this city.

Q. Anybody else appear in the negotiations besides Wright, Barrett & Stillwell?

Same objection by defendants.

A. I had some bids from—

Q. I mean representing the Northwest Paper Company?

A. No.

Q. Did you have any other bids at that time from any paper manufacturer in the Northwest?

Same objection by defendants.

A. We had a sort of a bid from the International Paper Company and from the Great Northern Paper Company.

689 Q. Those are eastern concerns, are they not?

A. Yes sir. They were not low enough to use.

Q. My question was, did you have any other bid from any other paper manufacturer in the Northwest.

A. No sir.

Q. And no other bid from any of these other defendants?

A. No sir.

Q. I wish you would go ahead, Mr. Hornick, and state all the circumstances and negotiations relating to the making of this contract, in 1901.

Mr. FLANDERS: All previous objections are renewed.

A. The General Paper Company, represented by Mr. Babcock, agreed to make a bid, but they fenced around for nearly two days. We said bids must be in by a certain hour in the afternoon. We got a bid from Wright, Barrett & Stillwell—the Cloquet mill—and Mr. Davis and Mr. Babcock told Mr. Thompson and myself that they would not put in a bid unless we assured them their price would not be used against them and if they made the lowest bid they would get the contract. They intimated that they were afraid we would—

Mr. FLANDERS: I object to the intimation.

WITNESS: They said they were afraid that we would give their price, if lower, to Wright, Barrett & Stillwell, for the purpose of throwing them the contract. We finally gave our word of
690 honor that we would not give the price away, and that if they were the lowest bidders they would get the contract. And they named us a price considerably lower than Wright, Barrett & Stillwell for the Cloquet mill.

Q. Did the other bidder, the Northwest Paper Company, afterwards make a bid?

Same objection by defendants.

A. While Mr. Thompson and I were considering the bids, Col. Wright and Mr. McNair came up to the fourth floor where we were, up the back way and demanded permission to meet that price, if lower, and demanded that we give them a chance to do so. We declined, because we had agreed to take the lowest bid and not mention the price. And Mr. McNair and Col. Wright made every effort they could to get us to change, even going so far as to state that this was a "game" of the General Paper Company to force them into the combination—into the General Paper Company.

Mr. FLANDERS: I move to strike that out as irrelevant, incompetent, immaterial and not responsive to the question.

WITNESS: That they had threatened to take away their customers, and this Dispatch contract was the first move in that direction.

Q. Was this stated by Mr. McNair or Col. Wright?

Mr. FLANDERS: That is objected to for all the reasons stated and as no proper foundation laid, and as hearsay.

691 A. Stated by Mr. McNair, I think, and corroborated by Col. Wright. Both talked about it.

Q. Now, you accepted the General Paper Company's bid made at that time, did you?

A. Yes sir.

Q. And this contract, Petitioner's Exhibit 133, was drawn up pursuant to that bid?

A. Yes sir; we drew up a temporary agreement to stand over night; it was after 6 o'clock when we got through talking, and the next day that contract was prepared and executed.

Q. Where was it executed?

A. In the office of the Dispatch Printing Company.

Q. And who was present?

A. Mr. Babcock, myself, and Miss Young, who is the cashier of the Dispatch Company.

Q. And it was delivered at that time also?

A. Executed, signed and delivered to me. I called in our book-keeper for the other witness.

Q. Anything said at that time about holding the contract up for the approval of any other party or any mill?

Mr. FLANDERS: That is objected to for the same reasons and as leading and suggestive, and the defendants insist that if the witness is to give his evidence he shall be asked what was said and not lead.

A. Nothing whatever.

692 Q. How long did that contract run, Mr. Hornick?

A. For one year, from about the 15th of May, until the 15th of May, 1902.

Q. At the expiration of that time you made another contract for the Dispatch Printing Company, did you?

Same objection by defendants.

A. Yes sir.

Q. With whom?

A. General Paper Company.

Q. I show you Petitioner's Exhibit 134; is that the contract?

A. Yes sir.

Q. Did you have any other bidder for your contract in 1902 than the General Paper Company?

A. No sir.

Q. Did you try to get any other bids?

A. Yes sir.

Q. What efforts did you make?

Mr. FLANDERS: Same objection, irrelevant, incompetent and immaterial.

A. Every effort I possibly could. I had been buying paper for years, and I tried every avenue where I thought I could get another bid. Didn't succeed.

Mr. FLANDERS: I move to strike that out for all the reasons stated.

Q. Before you became manager of the Dispatch, what business had you been engaged in?

A. I was with the Pioneer Press Company of this city.

693 Q. What capacity?

A. Superintendent of their manufacturing departments.

Q. Did you have occasion to buy paper for that company?

A. Yes sir.

Q. For how many years?

A. About fourteen years.

Q. In 1902 and from 1902 on, until the time you left the Dispatch, was there any competition whatever that you could find in this locality for the supplying of news print paper?

Objected to by defendants as irrelevant, incompetent, immaterial and leading, and calling for the opinion of the witness.

A. None whatever; no competition that I could ever find.

Q. Are you familiar with the general situation in the paper trade as far as the purchaser was concerned, prior to the organization of the General Paper Company?

A. Yes sir.

Q. What is the fact with regard to the existence of competition prior to that time?

Mr. FLANDERS: All the objections made are renewed.

A. We were able to get competition, and very close competition; in fact, the mills used to be tumbling over each other for contracts.

Q. What mills do you mean,—mills in this vicinity?

694 Objected to by defendants as irrelevant, incompetent, immaterial, leading and suggestive.

A. Mills in this vicinity.

Q. Where was this contract, Petitioner's Exhibit 134, executed and delivered, Mr. Hornick?

A. In the office of the Dispatch Printing Company.

Q. And who was present? Anybody besides you and the agent of the General Paper Company?

A. That contract: I don't remember that anybody else was present at the time it was signed.

Mr. FLANDERS: Let me see the two contracts that you have shown him.

Petitioner's Exhibits 133 and 134 handed to Mr. Flanders.

Mr. OLDS: The contracts are already in evidence.

Mr. FLANDERS: Yes, I know that.

Q. I show you Petitioner's Exhibit 135; is that the contract which you made at the expiration of the last contract spoken of?

A. It is.

Q. Where was that signed and delivered ?

A. In the office of the Dispatch Printing Company.

Q. I show you Petitioner's Exhibit 136. Is that the contract you made at the expiration of the last contract, Petitioner's Exhibit 135 ?

A. I would like to see 135 again.

Q. Maybe I have gone beyond your time ; I don't think so.

695 A. No, I guess not. This contract Petitioner's Exhibit 136 is the contract I made to succeed contract Petitioner's Exhibit 135.

Q. And where was that executed and delivered ?

A. In the business office of the St. Paul Dispatch.

Q. Speaking of these last two contracts, were they signed and delivered, as far as the General Paper — is concerned, then and there by the agent who acted for the company at that time, or not ?

A. These contracts and all the others with the General Paper Company were signed then and there and our copy was delivered to me at the time.

Q. Speaking of your first contract, that is, the price that you paid in 1899, you figured it down to the net amount paid for paper run through the presses. Have you made the same computation with regard to the contracts which you made with the General Paper Company afterwards, to ascertain just how much the paper actually cost the Dispatch under those contracts, for paper run through the presses ?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. Yes sir.

Q. Can you give it for any particular year or years ?

Same objection by defendants.

A. On the basis of the price charged in this contract Exhibit 136——

696 Q. That is the 1904 contract ?

A. 1904, the last one I made,—with the different conditions, no return of white waste, we paid all the cartage, both ways, only the allowance of the weight of the cores and not the wrappers or strings, no cash discount, the paper cost us as near as I could figure \$2.40 per 100 pounds for the actual net weight of paper that actually went through the presses.

Mr. FLANDERS: I move to strike that out as irrelevant, incompetent and immaterial.

Q. In the years 1903 and 1904, I notice by these contracts that the party representing the General Paper Company was Mr. E. B. Mendsen.

A. Yes sir.

Q. Did you have any conversation with him at that time about

the price or the power of the General Paper Company to regulate the price?

A. Yes sir.

Q. What was your conversation in 1903, if you remember?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, and for the further reason that no foundation has been laid showing or tending to show any authority on the part of Mr. Mendsen to make any statements binding the General Paper Company or any other defendant in this action.

A. Mr. Mendsen said to me that the General Paper Company was really a benefactor because they could charge us a much higher price, any price they wanted to, but hadn't done it; that they
697 had made what they had considered was a reasonable price.

Q. Was that in 1903?

A. That was in 1903.

Mr. FLANDERS: I move to strike that out for the reasons stated.

Q. Anything else you remember that was said along that line in that year?

A. Nothing else in that year, no.

Q. Did you have any further talk with him on that subject in 1904 when the 1904 contract was made, or thereabouts?

Same objection by defendants.

A. Yes, sir.

Q. On that subject?

A. Yes, sir.

Q. State what the conversation was.

Same objection.

A. I protested against the additional raise in price and asked him if he knew where I could buy paper if I didn't make a contract with the General Paper Company, and he told me he did not; he didn't know anywhere I could buy it outside of that company.

Mr. FLANDERS: I move to strike that out for all the reasons hereinbefore stated.

Q. What is your present business, Mr. Hornick?

A. I am the business manager of the San Francisco Chronicle, at San Francisco.

698 Cross-examination.

By Mr. FLANDERS:

Q. Mr. Hornick, in this computation in which you arrived at the figure of \$2.40, did you make it in writing, with pencil, or something of that kind? You made the computation, didn't you, on paper?

A. I did, yes sir.

Q. Where is the paper on which you made it?

A. I showed it at the time to Mr. Thompson, the owner of the Dispatch. If it is in existence today it is in, or was in, the envelope containing all the paper contracts for years back, which I left in the office of the Dispatch when I retired from its management on the 1st day of March.

Q. I suppose you can get it, can't you?

A. If in existence, yes sir.

Q. I will ask you to get it before you finally leave the stand and bring it in here if you will.

A. Yes sir.

Q. I don't mean to say this minute, I don't mean for you to go now, but you are going to be here today, aren't you?

A. Yes.

Q. And tomorrow?

A. I think I will be here tomorrow, but, if not, I will be here Wednesday.

Q. After you leave the stand you can go over and get it, can't you, if it is in existence?

A. Yes, if Mr. Thompson will authorize me to look through his papers.

Mr. FLANDERS: Well, if he won't, Mr. Thompson can do so.

699 Mr. KELLOGG: Oh, Mr. Thompson has no objection. If we can find it we will bring it in here.

Q. When was that computation made?

A. Some time subsequent to the making of this contract, in April, 1904, because I took the price, as I remember, of this contract as a basis of price and took the tonnage of the former year as the basis to figure out the total.

Q. And that was while you were still in the employment of the Dispatch?

A. Yes sir.

Q. Where did you get the details on which you made that basis of the cartage, etc.?

A. I handled all of those details myself and was very familiar with them, and I took the figures right from our books.

Q. You took them from the Dispatch Printing Company books?

A. Yes sir, took all the basic figures, and then compiled the totals from those figures.

Q. Now, aside from the contract price, what were the other bases, facts or figures?

A. For instance, we had to sell our white waste to a junk dealer. The loss between the difference in price we got on white waste from the junk dealers and the cost of the paper; that was one of the things that went into it. I took the tonnage for the year, the net tonnage, and I figured all the bills we paid; I added all the
700 expenses and loss on white waste, cartage and everything else; then divided that total by the actual tonnage that we

purchased, which went through our presses, and got the price per pound.

Q. What did you figure besides the cartage and the loss on the weight? Of course you took the price?

A. Yes sir.

Q. The cartage and the loss on the white waste?

A. Well, the difference between the gross weight and the net weight, plus the cores—that is, the wrappers and strings; the cartage on cores; empty cores that were shipped back to the mill. I think there are one or two other items there, but I should have to see that data to refresh my memory definitely.

Q. You can refresh your memory from the figures?

A. I certainly can, yes sir.

Q. Were the items of cartage of paper kept separate from other items of cartage?

A. Yes sir.

Q. Separate account?

A. Yes sir; separate column for paper cartage on our cash-book, also in the print paper record. We put down the freight and cartage and everything else, columnize each item by itself.

Q. Separate account in the ledger, also?

A. No, those separate figures were not detailed in the ledgers; they were on the print paper record book.

Q. What is the print paper record? Is that a book?

A. Yes sir, it is a record of every carload and every roll of
701 print paper that came from the General Paper Company during the time I was with the Dispatch and bought paper from them.

Q. How long did you say you had been in this line of business, Mr. Hornick? You were with the Pioneer Press before you went with the Dispatch?

A. Yes sir.

Q. How long had you been buying paper?

A. Off and on for 26 or 27 years, I guess.

Q. And the prices of paper have varied, I suppose, in that time a great deal?

A. Yes sir.

Q. And the terms have varied a good deal, haven't they?

A. No, the terms, cash discounts and time, etc., I don't remember that they varied for years until the General Paper Company came.

Q. Didn't you formerly pay for the wrappings, twine, etc.?

A. No sir; the full weight of the cores, wrappers and twine in the old days were all deducted.

Q. Before 1900 and 1901, wasn't there a time when they were not deducted?

A. Not to my recollection. I am sure I never knew that there was such a time.

Q. Well, other items have advanced besides paper, haven't they, since 1899, 1900 and 1901?

A. Yes sir.

702 Q. There has been a pretty general advance the last four or five years, hasn't there, of all living expenses, for example?

A. Generally, yes sir.

Q. And ink, I suppose, has advanced, hasn't it?

A. Ink has advanced and also gone down again.

Q. That is true of paper, too, isn't it?

A. Not to my knowledge.

Q. Isn't it lower now than it has been since 1900? Hasn't it been higher since 1900 than it is now?

A. Every year since 1900 paper went up, without a single drop in my time. Of course the present contract I know nothing about, because I wasn't here when it was made.

Q. I am not talking about their contract; I am talking about the price of paper generally.

A. I don't know. Out on the Pacific coast there is a different condition. I don't know whether the print paper rules lower here today than it did a year ago or not.

Q. The price of labor has advanced in the past four or five years, hasn't it?

A. Yes sir.

Q. Approximately how much?

A. About ten per cent. here in St. Paul I should say.

Q. Living expenses, that is, what a man buys to supply his family with, have been fully as much as that, haven't they? Ten to twenty-five per cent.?

A. I don't know the percentage. There has been a very
703 fair advance in some things.

Mr. FLANDERS: That is all, if you will bring that statement here.

Mr. KELLOGG: If you can get that statement, Mr. Hornick, I wish you would go and get it.

On the afternoon of the same day, the witness was recalled, and examined as follows:

By Mr. KELLOGG:

Q. I show you a letter, Mr. Hornick: did you receive that from Mr. Stuart?

A. Yes sir.

By Mr. OLDS:

Q. Did you receive it through the mail on or about the date it bears?

A. Yes sir; on or about the day following the date of the letter, by mail.

Q. That is the original letter you received?

A. The original letter.

The letter was marked Petitioner's Exhibit 155, and offered in evidence by petitioner.

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. Mr. Honick, have you produced the figures that Mr. Flanders called for?

A. I have, the original figures, all in my own handwriting, with the exception of some totals made by the book-keeper.

704 Mr. OLDS: Have the record show that the figures are in Mr. Flanders' possession.

Mr. FLANDERS: They are in my possession; the witness has handed them to me.

(Signed)

C. W. HORNICK.

Subscribed and sworn to before me this 27th day of July, 1905.

ROBT S. TAYLOR,
Special Examiner.

705 LUCIAN SWIFT, being duly sworn as a witness on behalf of the petitioner, testified as follows:

Direct examination.

By Mr. OLDS:

Q. Where do you live, Mr. Swift?

A. Minneapolis.

Q. What is your business?

A. Manager of "The Journal."

Q. How long have you been manager of "The Journal"?

A. Twenty years the 1st of November.

Q. As manager of the Journal have you had charge of the purchase of news print paper for that paper?

A. Yes sir.

Q. During all of that time?

A. Yes sir.

Q. What mill does your paper come from at the present time?

A. Northwest Paper Company, Cloquet.

Q. How long has it been coming from that mill?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. Since 1899, when they started.

Q. When the mill was started. Have you with you the first contract that you made with the Northwest Paper Company?

A. Yes sir.

Q. Will you produce it?

(Witness produces paper.)

Q. Paper marked Petitioner's Exhibit 153 is your contract made with the Northwest Paper Company, is it?

A. Yes sir.

Q. And was that contract renewed?

706 A. There is a clause in there that gives us the privilege of a second year at a price not exceeding 15 cents higher rate.

Q. And this endorsement at the foot of the first page, is that a renewal of the contract for another year at its expiration?

A. Yes sir.

Q. And this endorsement on the back of it is another renewal?

A. Yes.

Q. From 1901 to 1902?

A. Yes sir.

Q. You say the Northwest Paper Company started up about the time this first contract was made?

A. The contract was made in February, but they did not start to deliver paper until May. They didn't start the mill, I think, until May, 1899.

Petitioner offered in evidence Petitioner's Exhibit 153.

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. I notice this last renewal, in April, 1901, provides for a price of \$1.90 per 100 pounds. Is that the price which you were finally charged?

A. No, they changed it to \$1.87½.

Q. The change is not noted on the contract.

A. They gave it to us perhaps in a writing outside of that but never attached it to the contract.

Q. It was in a writing outside of the contract?

707 Q. *It was in a writing outside of the contract?*

A. I think so.

Q. Have you that writing?

A. No, I have not. But they reduced it to writing.

Q. Now, at the expiration of this last renewal, in 1902, with whom did you make a contract for the supply of news print paper?

A. The General Paper Company.

Q. And at that time was the Northwest Paper Company a bidder for the renewal of the contract?

A. Well, they had just gone into the General Paper Company.

Q. And they didn't bid on the contract that year?

A. No sir.

Q. Was there any other bidder besides the General Paper Company that year?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I looked around and tried to get bidders, but I couldn't get any.

Mr. FLANDERS: I move to strike that out for the same reasons and as not responsive to the question.

Q. What efforts did you make to get bidders?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. I couldn't get any other bid, and Mr. McNair assured me at that time that he—

Mr. FLANDERS: Now just wait a minute. You are not asked what Mr. McNair said, and I object to it.

Q. Did you ask Mr. McNair's advice about getting bids at all?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. Talked it over with him about going into the General Paper Company..

Q. When? Before or after they went in?

A. I talked with him before they went in.

Q. How long before?

A. Well, several times before that time because he had been considering the question as to going into the General Paper Company.

Mr. FLANDERS: Mr. Swift, now excuse me. It may not make much difference to you, but it will to me, if you will confine your answers to the questions strictly, and that will give me an opportunity to put my objections in in the proper place.

WITNESS: Very well.

Q. In these talks you had before this company finally went in, what did Mr. McNair say?

Mr. FLANDERS: Now just wait a minute. That is objected to as irrelevant, incompetent and immaterial and hearsay and not binding upon any of these defendants, and no foundation laid for the purpose of making it binding upon any defendant.

709 A. He told me he had finally decided to go into the General Paper Company, but that he had an understanding that the Journal, as an old customer of his, would be taken the best of care.

Mr. FLANDERS: I move to strike that out for all the reasons stated.

Q. Now, did you have any further talk with him before he went into the General Paper Company?

Mr. FLANDERS: All previous objections renewed to that.

A. Why, I talked with him several times about it. I didn't want him to go in.

Q. Anything further said about his going in and the reasons for his going in, or anything of that sort?

Mr. FLANDERS: Same objections repeated.

A. Well, I don't know whether he stated any reasons, but he said it was one of the conditions of his going in that the Journal should be taken care of.

Mr. FLANDERS: I move to strike that out for all the reasons stated and as not responsive to the question.

Q. Did he explain what he meant by being "taken care of"?

Mr. FLANDERS: Objected to for all the reasons stated, and as leading.

A. Well, I took it to mean that we would get a fair price in our contract for the paper.

710 Mr. FLANDERS: I move to strike that out as irrelevant, incompetent, immaterial, and the conclusion or opinion of the witness.

Q. Now, what conversation did you have with Mr. McNair on this subject after he went into the General Paper Company?

Mr. FLANDERS: All the objections heretofore stated renewed.

A. At what time do you mean?

Q. I understood you to say that you had conversations with Mr. McNair both before and after he went into the General Paper Company, and I have asked you about the conversations before he went in, and now I ask you what conversations you had after Mr. McNair's company joined the General Paper Company.

Mr. FLANDERS: My objections to that are repeated.

A. Well, I don't know as I had any particular talk with Mr. McNair. Mr. McNair and Mr. Hoover, I think, and some representative of the General Paper Company were there, and they made the contract and gave us that price.

Q. This is in 1902 that you are speaking of, is it?

A. Yes, that was the first contract.

Q. This contract marked Petitioner's Exhibit 115, is it?

A. Yes sir.

Q. And who represented the General Paper Company in making that contract?

A. Mr. Mendsen.

711 Q. And where was the contract made?

A. That contract was made in my office.

Q. And signed by Mr. Mendsen on behalf of the General Paper Company at that time?

A. Yes sir.

Q. And delivered to you at that time?

A. Yes sir.

Mr. OLDS: That contract has already been offered in evidence.

Mr. FLANDERS: Yes, I know it is in evidence.

Q. Mr. Swift, since the Northwest Paper Company went into the General Paper Company has there, so far as you have been able to discover, been any competition among paper mills or manufacturers here in the Northwest and West for the supplying of news print paper?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial and leading, and as assuming that the Northwest Paper Company went into the General Paper Company, of which there is so far not any evidence in the record, and as calling for the opinion of the witness.

A. Why, there was no competition from any mills in that territory that were competing—you might say there was no competition. There was no mill outside that we could find that could guarantee a supply. Any other prices that we got East, why the freight knocked us out.

712 Q. Did any of the agents or representatives of any of these defendant mills in this action ever call on you to bid on your contract after the year 1902?

Mr. FLANDERS: All objections repeated.

A. No sir.

Q. Now, prior to the year 1900 what was the situation in that respect?

Mr. FLANDERS: All objections repeated.

A. We always had competition up to that time.

Mr. FLANDERS: I move to strike that out for the same reasons and as an expression of opinion of the witness, simply.

Q. What was the fact? What happened? I don't ask for your conclusion as to whether there was competition or not, but what was the fact with reference to agents or representatives of the mills here in the Northwest, and particularly these defendant mills, calling upon you to get your contract prior to 1900?

Mr. FLANDERS: All objections repeated and renewed. Also objected to as leading.

A. Why, we always had calls, yes; always trying to get the Journal contract. We always had very close competition.

Mr. FLANDERS: I move to strike that latter clause out as irrelevant, incompetent, immaterial, not responsive to the question, and merely the opinion of the witness.

713 Q. I show you Petitioner's Exhibit 116. Is that the contract that was made by you at the expiration of the last contract shown you?

A. Yes, sir. This was made in 1903.

Q. And where was that signed?

A. I made this in Chicago. Mr. Mendsen was up here and I struggled with him several days trying to get a satisfactory price, and couldn't budge him, and I thought I would go down to Chicago and see what I could do. I went down to Chicago and interviewed another paper man, representing another paper company, but they said on account of the freights they couldn't do anything—

Mr. FLANDERS: Now wait just a minute. I object to what the other paper man said, and move to strike out the answer of the witness so far as it relates to that, as hearsay, irrelevant and immaterial.

WITNESS: Well, excuse me. I didn't say what he said. I said on account of the freight rates we couldn't get a price from him that was in any way satisfactory. And then I went over to see Mr. Stuart.

Q. Mr. Stuart of the General Paper Company?

A. The General Paper Company office.

Mr. FLANDERS: I move to strike out the statement of the witness for the reasons stated.

Q. Did you have a conference with Mr. Stuart at that time?

A. Oh, I had quite a conference with him.

Q. State what took place.

714 Objected to by defendants as incompetent, irrelevant, immaterial and no proper foundation laid.

A. Why, I thought it was a pretty good rise in the price, and I remember telling him that he had got the paper question in such situation now that there was absolutely no competition; that the most a purchaser of paper could expect was that he should get paper at as low a price or at the same price as his competitor did. I said, "If you would assure me that I am making just as good a contract with you as any competitor, I will step up and sign the contract without any hesitation; that the General Paper Company was in the same position as the Typographical Union and the Western Union Telegraph Company, that they controlled things and their rates were uniform to all competitors, and the paper business ought to be in the same condition. But while he admitted that that was, perhaps, a good business proposition, that he wasn't prepared to do that—he wouldn't assure me that he would do it. He even went so far as to tell me that I had been buying paper cheaper than the other Twin City papers and if I paid a little more for it now it would only even up things. I told him that struck me as a very peculiar statement. I told him that I never bought cheaper—

Mr. FLANDERS: I move to strike out the statement as to what Mr. Stuart said for all the reasons stated.

715 Q. Did you take up with Mr. Stuart then the making of a contract?

A. Yes, I did. He told me that they were having trouble

in some of the mills and were liable to have a strike, and if they did paper would be higher. So I signed the contract before I got out of the office.

Q. Did you pay the price Mr. Stuart fixed at that time?

A. I did, absolutely.

Q. And that was the price in the contract of 1903?

A. That was quite a material increase because a number of privileges we had in the other contracts were eliminated.

Mr. FLANDERS: Objected to as irrelevant and immaterial, and I move to strike out the answer for the reasons stated.

Q. Was this contract signed and delivered at the time in the office of the General Paper Company?

A. Yes sir.

Q. Who was present at the time besides yourself and Mr. Stuart? Anybody?

A. Mr. Nelson was there part of the time, but I don't think he was there when we finally closed the deal. He came in while Mr. Stuart and I were talking, but I think he didn't stay long.

Q. I show you Petitioner's Exhibit 117. Is that the contract you made at the expiration of the last contract we have been considering?

A. Yes sir.

Q. Where was that contract made?

A. That was made in my office.

Q. And who represented the General Paper Company?

A. Mr. Mendsen.

716 Q. Was the contract signed and delivered at that time by Mr. Mendsen?

A. Yes sir.

Q. Did you have any talk with Mendsen at that time on the subject of prices or terms?

A. Didn't have any more than except to try to have him assure me that I didn't pay any more than anybody else did up here, that is all I was standing for.

Q. Anybody else there beside Mendsen?

Mr. FLANDERS: And he declined to give you that assurance?

WITNESS: Yes sir. I don't remember. Mr. Tuller, business manager, might have been in the office.

Q. Was Mr. McNair present at any of these times when the contract with the General Paper Company was made?

A. Yes sir.

Q. More than once?

A. He was there this year, but I don't remember whether he was there a year ago.

Q. Well, did he have anything to do with the fixing of the price or the terms of the contract?

Mr. FLANDERS: That is objected to as irrelevant, incompetent

immaterial, leading and calling for the opinion of the witness, and not confining the witness to what was said and done.

A. No sir.

Q. Who did fix the price?

Same objections by defendants.

Q. I mean this time when Mr. McNair was present.

A. The price seemed to be already fixed by—I don't know who, but Mr. Mendsen only stated one price.

Mr. FLANDERS: I move to strike that out as not responsive, as incompetent, irrelevant, immaterial, and for all the reasons stated.

Q. Was anything said with regard to the price being satisfactory to Mr. McNair or not?

717 Objected to by defendants for the same reasons and as leading.

A. You mean at the time the contracts were made?

Q. At any time when Mr. McNair was present, when the contract was made.

A. Well, — of that this year when we made our contract.

Q. Now, who was present when you made your contract this year?

A. Mr. Allen.

Q. Was Mr. McNair there?

A. And Mr. McNair.

Q. Now, state what took place.

Objected to by defendants as irrelevant, incompetent and immaterial.

A. Mr. Allen stated that he could assure me that the point that I had been raising on the last few contracts had been granted; virtually that he could assure me; that while he didn't want to say so in so many words, he gave me to understand that that was conceded, that the Journal should not pay more for paper than any other publisher in the Northwest.

Mr. FLANDERS: I move to strike that out for the reasons stated, and for the further reason that it represents the conclusion and opinion of the witness, and I insist that this witness and others shall be confined to stating what was said and done.

Q. Did Mr. McNair take any part in these negotiations in 1905?

Same objection by defendants.

A. Mr. Allen stated the price that he was to charge us in this contract this year. He said that is a very low price. He said,

718 "I haven't consulted with Mr. McNair as to the price, and I don't know whether that is satisfactory to him or not. Mr. McNair stated that the Journal was an old customer of his, and that

it would please him to see the Journal get as favorable prices as possible, or words to that effect.

Q. Was the price quoted by Allen the price finally made by you in the contract?

Same objection by defendants, and as leading.

Mr. OLDS: I mean in this year's contract.

A. The price in the contract there is stated as \$2.10.

Q. Is that the price quoted by Mr. Allen at that time?

Same objection by defendants, and as leading.

A. That is the price quoted at that time.

Q. Now, this 1905 contract, Petitioner's Exhibit 114, was signed and delivered at that time in your office, was it?

A. Yes sir.

Q. And that is true also of this 1904 contract, is it?

A. Yes sir.

Q. Did you ever have any talk with Mr. McNair on the subject of prices at any other time than the time you made contracts, that is, since his company went into the General Paper Company?

Same objections by defendants.

A. Yes sir, I had a contract with him after we made the contract of 1904, I think, when he stated——

Q. What was said at that conversation?

Mr. FLANDERS: That is objected to as irrelevant, incompetent, immaterial, no proper foundation shown so as to authorize any conversation by Mr. McNair to bind any one of these defendants.

A. I was complaining of the increase in the contract price. He stated to me, also to Mr. Tuller, that he would have been
719 satisfied with a lower price than that, but the company wouldn't stand for it.

Q. What Company?

A. The General Paper Company.

Q. Have you ever made any computation of the actual net increase in cost to you for paper run through your presses, under the contracts made by the General Paper Company over the cost under the contract which you had with the Northwest Paper Company prior to the time it went into the General Paper Company?

A. Yes, I think I made a comparison with the first year of the Northwest Paper Company.

Q. What year was that—1899?

A. 1899.

Q. And compared it with what other year?

A. My impression is it was last year's contract.

Q. 1904 contract?

A. I think so.

Q. Have you with you the figures showing that computation?

A. No sir, I haven't.

Q. Are they in existence?

A. I think they may possibly be in the office.

Q. Is this paper which I show you a copy of that computation which you made?

A. Mr. Tuller made this and I went over it with him and certified to it.

Q. Is that a copy of the figures that you made at that time?

A. Yes sir.

The paper was marked Petitioner's Exhibit 154.

Mr. Flanders objected to the examiner marking papers as exhibits until they had first been offered in evidence, and directed the examiner to enter the following statement on the record: I request the examiner that, subsequently, exhibits which are not
720 offered shall be marked for identification or the marking reserved until they are offered.

The petitioner offered in evidence Petitioner's Exhibit 154.

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. Do you know, Mr. Swift, of your own knowledge whether the facts appearing in this Petitioner's Exhibit 154 are correct?

A. According to my best knowledge and belief they are.

Q. Did you go over them yourself?

A. Yes sir.

Q. With your own books?

A. I didn't go over the books, but I know those are the prices, and so on.

Q. You know those are the facts of your own knowledge?

A. Yes sir.

Q. Mr. Swift, what was the percentage of increase of cost to you of paper under this 1904 contract over the price in the first contract with which you made the comparison, if you know of your own knowledge?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I have not seen those figures for some time. My recollection is about 58 per cent.

Q. Now, Mr. Swift, when these contracts with the General Paper Company were made in 1902, 1903, 1904 and 1905, was anything ever said by the representatives of the General Paper Company about getting the approval of any mill for those contracts?

Objected to by defendants as irrelevant, incompetent, immaterial and leading.

A. No sir.

721 Cross-examination.

By Mr. FLANDERS :

Q. Won't you look at Petitioner's Exhibit 153 and state whether or not that contract provides for wrappers.

A. I don't see anything in here about wrappers.

Q. No. Now, then, what is this item of tare, extra wrappers, 17 pounds?

A. At the time we had this contract here the regular weight of the wrapper ran about 8 pounds, something like that, and they arbitrarily increased it up to about 17 pounds; that is the reason.

Q. Well, you say there is nothing in the contract which relates to wrappers.

A. No. They arbitrarily increased the weight of the wrapper, and it cost us that much more.

Q. That is not what I am asking you, Mr. Swift. According to the contract with McNair there was nothing said as to whether the wrapper should weigh 8 pounds, or 5 pounds, or 10 pounds, or 17 pounds?

A. No.

Q. There is nothing in it whatever about wrappers, is there?

A. No sir.

Q. And you say that they arbitrarily increased it from 8 pounds to 17 pounds?

A. Yes sir.

Q. How do you get 7 cents in that way? How do you figure out that 7 cents?

A. I couldn't tell without figuring at it. That looks as though that was too much.

Q. Well, the fact of the matter is, Mr. Swift, those are not your figures anyway, are they?

A. Well, as I said, the business manager made out these figures, and I went over them with him after he made them out.

Q. Did you go over them or did you take his figures as correct?

722 A. Well—

Q. Did you verify them? Did you figure it out yourself?

A. Yes sir, I figured them over.

Q. Now, how do you get that 7 cents?

A. Well, I should say that that 7 cents was too much. I would have to figure that out.

Q. How do you figure it to get any sum?

A. I don't know—perhaps that is all right, too. Why, a roll of paper weighs about 500 pounds. If we were paying extra 17 pounds of wrapper on a roll over what we had been paying, it was allowed in these others, but it was not allowed in the 1904 contract. 17 is about a 30th, which, at the prices we were paying there, makes about 7 per cent.

Q. Well, I thought you said the tare on the other one was 8 pounds and they arbitrarily increased it to 17?

A. They don't allow any tare now. They used to allow that much. They increased the tare up to 17 pounds, but don't allow any.

Q. But they did allow 8 pounds before, is that right?

A. They used to allow 8 pounds, but they have taken that off; they don't allow anything now, they don't allow any tare. That makes that 7 per cent. all right.

Q. The question is how you figure it.

A. Well, just 17 pounds extra wrapper there that we were paying for, that we didn't used to pay for.

Q. 17 pounds out of 500?

A. 17 pounds out of a 500 pound roll. It is about a 30th of it. At the price we were paying that would be about 7 cents.

723 Q. Now, if, formerly, they only allowed 8 pounds for tare, for wrappers, and the tare on 500 pounds was actually 17 pounds—

A. It was not.

Q. Well, what was it?

A. It was 8 pounds, and they allowed what it was, and they arbitrarily increased the weight of the wrapper to 17 pounds.

Q. Oh, they increased the weight of the wrapper at the same time?

A. Yes, sir. We had quite a controversy and we tried to get them to make us some allowance on it. They wouldn't do it, but they finally made us a very small allowance. It cost us several thousand dollars.

Q. Mr. Swift, this weight increase from 29 pounds to 32 pounds, won't you explain what that is?

A. Well, up to the time we made the contract with the General Paper Company we could have our paper at the rate of any weight we wanted it—29 pounds.

Q. 29 pounds to what?

A. 29 pounds to the ream.

Q. How many sheets is that—500 or thereabouts?

A. Yes sir.

Q. Now, then, it was increased—

A. Then they arbitrarily increased the rate and said we had got to take 32 pounds.

Q. Now, wasn't that a general increase throughout the country in the paper trade?

A. Only by the paper mills after they got the combination made, it was.

Q. Well, wasn't it a general increase by other paper manufacturers than those represented by the General Paper Company?

A. Not that I know of.

Q. Well, are you informed about it?

A. Well, I never made a contract with anybody else. I don't

know what their conditions were on that. No, I don't think it was, because the Tribune made a contract with a paper-mill that
724 was outside of the combination, here last year, and they didn't increase their weight, as I understand it.

Q. You are not in the Tribune?

A. No sir.

Q. You don't know about that except what you have heard?

A. Except what I have heard. I know the paper don't weigh 32 pounds—what we have weighed.

Q. How do you know that?

A. Weighed it.

Q. Did you weigh it?

A. Yes sir.

Q. Weighed the Tribune?

A. Yes sir, to see what their weight is; keep track of it.

Q. Why did you weigh the Tribune paper?

A. To see whether they are running heavier paper or not.

Q. Heavier than you are?

A. Yes sir.

Q. And why were you interested in that?

A. Oh, you are generally interested in your competitors' business.

Q. Yes, I know that, of course, but I am not familiar with your business. I ask you why.

A. Well, that is the way to keep posted. We wanted to see whether it had been enforced with them. I don't think the General Paper Company enforced it on their contract with them the year before. They did with us. We weighed their paper and it didn't weigh 32 pounds. We didn't always keep up to 32 pounds ourselves.

Q. You didn't weigh it yourself, I suppose?

A. No sir.

Q. And when paper of that kind was weighed, how would it be weighed, in what quantity?

A. Well, they have a newspaper scale that you can take off a page or part of a paper and weigh it and tell just how much it is running, what the weight is.

725 Q. Then it would be the weight of a part of a page of the Tribune, would it?

A. I believe you can figure it that way.

Q. Well, is that the way it is done?

A. Yes sir.

Q. That must be a very small weight?

A. It is; it is a very delicate balance.

Q. Made for that purpose?

A. Yes sir.

Q. What is it for, if you know?

A. Oh, newspaper scale, I think.

Q. You have no knowledge as to any of these items—as to the

correctness of any of these items—except as they were told you by your men there in Minneapolis, have you?

A. Oh yes, I know what they are, all right.

Q. Well, you didn't look at the freight charges, did you? Didn't you take his statement for that?

A. The freight? I know what the freight is.

Q. Freight from where?

A. The freight from the Northwest Paper Company, from Cloquet.

Q. Doesn't vary from year to year?

A. I don't remember of it varying any.

Q. Well, what was it, for example, in 1904?

A. It was 7 cents.

Q. And that, you say, has been the uniform rate?

A. As far as I remember it; and if it varied from that I don't remember.

Q. What was the drayage?

A. Well, I am not sure; I think it is 30 cents a ton.

Q. 30 cents a ton?

A. I think so. I have forgotten just what that is.

726 Q. What was the waste?

A. I don't remember the waste. Of course that is reported into the office from the press-room. Of course I would take his figures for that.

Q. What is that?

A. I would have to take his figures for that. That is reported in from the press-room.

Q. And I suppose the same way in relation to the postage, isn't it?

A. The postage is uniform—a cent a pound.

Q. Well how much was the increase in postage here, if you know? Did you have any knowledge about that?

A. Only as we figured it from that. The increase in the weight of paper, of course made increase in the postage bill.

Q. As a matter of fact, wasn't that taken from the figures that were furnished to you? You didn't weigh the paper, I suppose?

A. Oh, no; that was taken from the postoffice. They weigh the paper in the postoffice.

Q. I think you said that the waste was 30 cents a ton. Or was that the drayage?

A. The drayage. They used to take back their white waist-, but they don't now.

Q. The waste, you said, you couldn't give?

A. No.

Q. You had to rely on the figures that were given you for the waste?

A. Yes sir.

Q. I suppose only a small amount of the issue of the Journal went through the mails?

A. Oh, a pretty good percentage of it.

Q. Well, but by far the largest amount of your circulation is delivered, isn't it?

A. No sir.

Q. Well, what proportion is delivered?

A. Why, I should judge, offhand, that about $2/5$ in the city and $3/5$ outside.

Q. $2/5$ and $3/5$?

A. Yes.

Q. Now, how do you figure up the postage increase, having
727 in mind the fact that only $3/5$ of it goes through the mails?

A. We figured on that $3/5$.

Q. Well, can you tell what the difference in the postage weight was 1904 over 1899?

A. Yes sir.

Q. How much was it?

A. Well, I can't tell now; the books show it.

Q. Oh, you mean that comes altogether from information that you get from your man?

A. Yes.

Q. You have no personal knowledge of that?

A. No sir.

Q. Well, you have charged in here 3 cents a hundred pounds.
How do you figure that?

A. With the postage?

Q. Yes. How do you arrive at that figure?

Mr. KELLOGG: What figure is that, Mr. Flanders?

Mr. FLANDERS: The postage account increase, weight of sheet, 3 cents. He says $2/5$ was delivered and $3/5$ went through the mail. Now, you have charged in here 3 cents a hundred pounds as an increase. How do you arrive at that?

A. Let me see that a minute, I don't understand it.

Q. The last item there. (Handing witness the memorandum.)

A. I don't remember just why that comes out 3 cents on 100 pounds.

Mr. KELLOGG: How long since you have seen that statement?

WITNESS: Oh, I haven't seen it since it was figured out, a year or several months ago, I can't tell when. I can't tell offhand how they got that 3 cents now; but, as I say, Mr. Tuller figured these over and I went over the figures with him at that time to see that they were right, and they figured out right. Now, I don't remember offhand just how that comes 3 cents.

728 Q. But you must have some knowledge of the way to get at it, Mr. Swift, haven't you?

A. Yes.

Q. I am not asking you just how you got at 3 cents, but how do you get at it on general principles. The increase is stated there to be from 29 to 32 pounds, isn't it?

A. Yes.

Q. That is on a ream, is it, of 500 sheets?

A. On 100 pounds here.

Q. That is an increase of 3 pounds on 500 sheets, is it, or what?

A. That is on 100 pounds—would be the increase.

Q. Well, that is all. You are not able to tell how you figured it out?

A. Well, I could figure it out in a minute, but I can't figure it very well here now.

Q. Can you tell now how you figured it—not how you got 3 cents, but how you figured it?

A. Why yes; it is the additional weight of the paper.

Q. Additional weight of the paper to what?

A. Before it weighed 29 pounds and they increased it pretty near 10 per cent.

Q. 29 pounds for how much for how many sheets?

A. On a ream, 500 sheets. Now, that would be a tenth increase, and then about $2/5$ of that, which would make it about, in the weight of the whole thing, but in the postage at a cent a pound it would make about a 30th increase in the amount of paper. No, it wouldn't—let's see—it wouldn't make that much—yes, about a 30th, and \$1.00 a hundred pounds would make it about 3 cents.

Q. How do you make it a 30th?

A. They increased the weight of the paper a tenth, and there is about $3/5$ of a tenth, which would be $3/50$, wouldn't it?

729 Q. Well, I am not studying arithmetic.

Mr. KELLOGG: If you want him to figure it out, he will do so and let you know about it.

Mr. FLANDERS: Well, I want to know what he knows about it. You have put him on the stand as a witness.

WITNESS: I have figured it out lots of times.

Mr. FLANDERS: I am asking you how you figured it out.

Mr. KELLOGG: Figure it on this, Mr. Swift. (Handing witness a piece of paper.)

WITNESS: Well, I will tell you I can't figure that right now to get the 3 cents, but I am sure it is right and I will figure it out later and give it to you,

Mr. FLANDERS: All right.

By Mr. KELLOGG: Mr. Swift, did you verify the items that had to be taken from your books as to quantities, etc., in that?

A. Why, I didn't personally go down and verify it.

Q. Will you do so and see that that is correct?

A. Yes sir.

Q. And produce the figures in answer to Mr. Flanders' last question?

A. Yes, I will do that.

By Mr. FLANDERS:

Q. Mr. Swift, the fact is, is it not, that there has been a very general increase since 1899 and 1900 in pretty nearly everything?

A. Why, not a very material increase.

Q. What do you call a material increase?

A. Well, we pay the same for our telegraphic charges; we made a new contract with the typographical union, and I think it increases us possibly 10 per cent. The rest of the wages have not been increased, I think.

Q. Oh, I am not talking about your business alone; I am talking about materials and products and labor generally. Hasn't
730 there been a general increase in the past five years of from 10 to 25 per cent.?

A. Yes. I shouldn't think it was as much as that. There has been an increase all right, in other lines of business.

Q. Well, in products generally; the expense of living has increased, hasn't it,—butcher's bill and grocer's bill, etc.?

A. I haven't been buying them, I don't know.

Q. Well, but you publish a paper and you know what is going on about you, if you haven't been buying them, don't you?

A. I don't know the percentage of increase.

Q. I am asking you if there has been a general increase in the expenses of products generally.

A. Yes.

Q. And what would you say, from your general knowledge, it was?

A. Oh, well, I don't know; it costs about 25 per cent. more to build.

Q. How has it been with labor generally?

A. I don't know whether that has increased that much or not.

Q. Well, how much would you say it has increased?

A. Well, I haven't any idea.

Q. You say your labor has increased about 10 per cent.?

A. Part of it.

Q. Part of it more?

A. No sir. I don't think the rest of it is very much increased at all.

Q. Well, you know what it was before 1899, don't you?

A. I could tell by looking it up.

Q. Well, suppose you look it up, and when you come back with this other information you can tell us.

A. Take it off and on, I don't think our pay-roll, as far as the same number of men is concerned, would vary 10 per cent.

Q. Well, suppose you look it up and see what you were
731 paying your men prior to 1900 and what you have been paying them since.

A. Do you mean any particular men? The general pay-roll?

Q. I mean the men that print and publish your paper.

A. All the pay-roll?

Q. Yes, and the items in it, so you can tell which have increased and which have not. Can you do that?

A. I guess so.

By Mr. KELLOGG:

Q. Now, have you any knowledge as to what building material has increased?

A. No, I haven't any.

Q. Isn't iron and steel cheaper today than it was in 1900?

A. I don't know.

Q. Are your presses any more expensive today than they were in 1900?

A. I don't think they are.

Q. Look those items up, please.

A. What is it you want looked up?

Mr. KELLOGG: I want you to check those items up, and the items Mr. Flanders asked you about, labor and other expenses.

On the following day, the witness was re-called, and examined as follows:

By Mr. KELLOGG:

Q. When you left the stand last night you were making some calculations as to the increase to the Journal in the item of postage, which I believe you had at 3 cents on your statement. Have you checked that up so that you can state of your own knowledge whether that is correct or approximately correct?

732 A. I figured it over again, I figured it to myself here yesterday and I couldn't make the figures the same, and I wanted further time over it. I figured it over in this way. The scale I was figuring there was on the basis of 100 pounds of paper. The increase in the weight of paper was 10 per cent., and figuring $3/5$, or 60 pounds out of a hundred going through the mail, on which postage is paid, it would increase the cost on that 10 per cent., or a cent a pound; 60 pounds would be 6 cents, instead of 3 cents. I don't know how we figured 3 cents there before.

Q. Let me take that statement. Have you got it?

A. It should be 6 cents instead of 3 cents.

Q. Then the statement is under rather than over?

A. That statement is under.

Q. Have you checked that up, the whole statement, so that you know whether the 58 per cent. increase is conservative as to the total amount?

A. That is conservative. It is not figured right down to a fraction, we weren't figuring as close as that, but it is all right—very conservative.

Cross-examination.

By Mr. FLANDERS:

Q. Now, won't you state how you figured that 6 cents, Mr. Swift, so that I can understand it. I don't quite understand it.

A. I say that is figured on the increased cost of 100 pounds of paper, comparing the 1900 contract with the 1904 contract, and the weight is increased—

Q. You mean the weight increase from 29 to 32 pounds?

A. The increased weight of the paper was from 29 to 32 pounds, 10 per cent. or a little over. Now, on a hundred pounds of paper, if they all went through the mail, the increased cost of that 733 would be 10 per cent or 10 pounds, and that would be 10 cents. But as only 60 pounds out of 100 go through the mail, that would be 60 per cent. of that, or 6 cents, which would be the additional cost of 100 pounds of paper.

Q. You have in here (Exhibit 154) the waste at $3\frac{1}{2}$ cents per hundredweight, don't you?

A. Yes.

Q. Now, that is assuming that the waste, since 1900, or since this increase in weight is the same in proportion as it was before 1900, isn't it?

A. Yes, sir.

Q. Isn't this the fact, Mr. Swift, that there is less waste when the weight of the sheets is heavier than there is when they are lighter?

A. Well, it is not entirely due to the weight; it might make a little difference, but I asked Mr. Tuller about that and he said that our white waste was running virtually the same as it was.

Q. I didn't ask you what Mr. Tuller said.

A. He keeps the records.

Q. He isn't a man I can ask any questions, so I will have to ask that that be stricken out as hearsay and not responsive to the question. I ask you now whether, where the weight of 500 sheets of paper is 29 pounds, the waste is not a larger proportion than where the weight is 32 pounds? In other words, doesn't the fact that each sheet is heavier make it stronger and diminish the amount of waste?

A. Yes, it would, but our records don't show it has been any less.

Q. I don't care what your records show.

A. Well, that is an offhand proposition. You might say it might be so or not be so; it might be so theoretically.

734 Q. I am not talking about what your records show, because you might have a press-man that was careless.

A. We have got the same press-man.

Q. Well, he may have been careless all the time?

A. They never complained of the waste.

Q. I am not complaining of him because it is not my property that he is wasting. I am not interested as a stockholder in your company. I wish I was.

A. I wish you were.

Q. But I ask you whether as a matter of fact the sheets would not be stronger and less liable to crumble and crack and break if they were 32 pounds to 500 sheets than if they were but 29?

A. Well, theoretically, I guess that is true.

Q. Now, if the business is properly conducted that would tend to diminish the waste, wouldn't it?

A. Slightly.

Q. Have you yourself any experience in testing it?

A. No sir.

Q. Well, then, why do you say slightly?

A. I figured it wouldn't make very much difference.

Q. But you don't base that on any personal knowledge?

A. Well, I know that in handling the rolls there is more or less broken, anyway, and thrown off. If the sheet broke oftener there would be more white waste. But we didn't have any trouble with running 29 pound paper as long as we got it.

Q. Now, then, furthermore, where the press-men and printers know that the white waste can be returned and charged up to the manufacturer, what do you say as to whether that would tend to make them less careful,—whether the manufacturer paid the bill or whether the publisher paid the bill; would that
735 make any difference?

A. If you didn't keep any track of it at all, if you were returning too much white waste you would get a kick from the mill, you know.

Q. No, but I am speaking of the printer, the press-men.

A. You would call him down if the white waste seemed unreasonable in there; he would get called down whether we returned it at cost or not.

Q. Do you think the fact that his employer would have to pay the bill would make him more careful or less careful than he would be if the manufacturer had to pay it?

A. I don't know whether the press-man ever knew it; I don't think he knows today the difference in it.

Q. You don't think that he is informed about that?

A. No sir.

Q. He knows that the white waste was returned under the old regime?

A. Well, he never knew any of the conditions of the contract, whether we returned it at full price or whether we got full price for it?

Q. Is it returned now?

A. No sir.

Q. Well then, he did know that it was returned under the old regime and that it is not returned now?

A. Yes, he knew it went to the mill. He knows that we sell it at a slight figure now; he don't know what we get for it.

Q. Sell it to whom?

A. To the junk man.

Q. Do you mean to say, Mr. Swift, that a press-man who knew that the waste was sent back to the manufacturer, to the mill, formerly, and knows now that it is sold to the junk-man wouldn't think there was any difference to the publisher whether it went to the mill or junk-man?

736 A. I don't think they often think about those things. It all depends upon what the office does, upon the watchfulness of the office.

Q. Well, what do you think about the office? Take the office of your publication: would that or would that not be as careful, or more careful, or less careful, when the manufacturer was to stand the loss, as compared with when the paper was to stand the loss?

A. They ought to be more careful.

Q. When the paper stood the loss?

A. They ought to be, yes.

Q. What do you say as to whether they would or not?

A. Mr. Tuller says ours runs just the same.

Q. I am not talking about Mr. Tuller.

A. Well then, I say we are running just as carefully now as we ran before.

Q. You don't think in your office it would make any difference?

A. No sir.

Q. What difference, or what effect, if any, would it have upon you as to whether this loss was borne by the manufacturer or borne by your company?

A. We would be just as careful with the white waste.

Q. Either way?

A. Yes, sir.

Q. Whether you stood the loss or whether somebody else did?

A. Yes sir.

By Mr. KELLOGG:

Q. Does white waste depend alone on breaking sheets when the paper is going through the presses?

A. There is some waste on the roll when they open it up; the edges may be split a little, and you have got to tear it off, in

737 handling it.

Q. Your books show the amount of white waste, do they; you keep track of it?

A. Yes sir.

By Mr. FLANDERS:

Q. How do you know they do? Do you know anything about it except what you have been told?

A. I haven't kept the books myself. I know we get the reports there from it.

Q. That is all you know about it?

A. Yes sir.

(S'g'd)

LUCIAN SWIFT.

Subscribed and sworn to before me this 22 day of August, 1905.

ROBT S. TAYLOR,
Special Examiner.

738 CONDE HAMLIN, sworn as a witness on behalf of the petitioner, testified as follows :

By Mr. OLDS :

Q. Mr. Hamlin, where do you live ?

A. St. Paul.

Q. And what is your business ?

A. I am the general manager of the Pioneer Press Company, the publisher of the Pioneer Press.

Q. How long have you been connected with the company ?

A. About 16 years.

Q. Have you had general charge of the purchase of news print paper for the Pioneer Press ?

A. Yes, since January 1, 1900.

Q. And when did you become general manager ?

A. I was elected the last part of December, 1899, but I didn't take actual control until January 1, 1900, a few days later.

Q. Do you know what the Pioneer Press was paying for its news print paper at the time you became general manager ?

A. Yes sir.

Q. What was it ?

A. \$1.75 a hundred.

Q. Any discount on that ?

A. No sir.

Q. Who was it purchasing from, do you know ?

A. They were purchasing from the Hennepin Paper Company.

Q. Do you know whether at that time the company was returning its waste paper to the mill ?

Objected to by defendants as incompetent, irrelevant, immaterial and leading.

A. Yes sir, they were.

Q. Do you know anything about the condition of the paper trade from the point of view of the newspaper man prior to 1900, with reference to the existence or non-existence of competition among the manufacturers ?

739

Same objection by defendants.

A. I had always understood there was plenty of very active competition.

Mr. FLANDERS : I move to strike that out as not responsive to the question and for all the reasons stated, giving the opinion of the witness.

Q. Have you had any active experience yourself——

A. No sir.

Q. —that would give you personal knowledge of that?

A. No sir.

Q. As general manager of the Pioneer Press, making its contracts for news print paper, you did acquire a knowledge of the situation in that respect after 1900?

Mr. FLANDERS: All the objections repeated.

A. Yes sir.

Q. And what were the facts with reference to the situation after the General Paper Company was organized in 1900 with respect to the existence of competition or the lack of competition among the mills?

Mr. FLANDERS: All objections repeated, and as calling for the opinion of the witness.

A. In 1900?

Q. I mean after the General Paper Company was organized. I am asking the general question, what the fact was in regard to the existence or non-existence of competition.

A. Well, I couldn't secure any competition in 1900.

740 Mr. FLANDERS: I move to strike that out for all the reasons previously stated and as not responsive to the question.

Q. In 1900 you made your first contract for the supply of news print paper for the Pioneer Press, did you not?

A. Yes sir.

Q. And state what you did in that year with reference to the making of that contract and getting bids for it.

Mr. FLANDERS: That is objected to for the same reasons.

A. I sent out a circular letter to a number of mills in the Northwest, based on a circular letter which had been used by my predecessor, asking for bids and stating the——

Mr. FLANDERS: We object to that further for the reason that the circular letter is the best evidence of its contents.

Q. Did you keep a copy of the circular letter you sent out, Mr. Hamlin?

A. I have a copy or the duplicate used when I sent out the letter.

Q. Well, have you a copy of the letter you sent out?

A. No sir.

Q. Was it copied?

A. No sir.

Q. All you know about it, then, is what you have in the——

A. Purely a circular, that is all.

Q. A copy of the previous letter?

A. Yes sir.

Q. Have you a copy of the previous circular letter?

A. Yes sir.

Q. Will you produce it?

Witness produces paper and hands same to Mr. Olds.

(The witness was withdrawn at this time, in order to accommodate another witness, and on the morning of July 25, 1905, was recalled, and his direct examination resumed, as follows:)

741 Q. Mr. Hamlin, at the time that your examination was suspended yesterday, you had just produced a copy of the circular which you said had been used by your predecessor and yourself in soliciting bids for your paper contract. Is that circular here now?

Witness produces circular.

Q. Now, I understood you to say that this was not a carbon or letter-press copy of the letter which you actually sent out yourself; is that so?

A. No sir; I followed that circular.

Q. What is this? Is this a carbon letter sent out by your predecessor?

A. Yes; he kept it from year to year, simply, I suppose, to save writing a new one.

Q. This is a carbon copy of the circular he sent out?

A. Yes sir.

Q. And you used the same form the year that you came in?

A. Yes sir.

Q. And what is this written at the bottom of the second page of this paper that you produce?

A. That is the notation by the Hennepin paper mill making contract for the year previous to my taking charge; that is, the contract extended over into my first year. I operated under that contract for January, February, March and April.

Q. This notation, then, at the foot of page 2, is the contract itself under which the paper was operating when you became general manager?

A. Yes sir.

Q. And that was the price the Pioneer Press was paying when you went into office as manager?

A. Yes sir.

The paper was marked Petitioner's Exhibit 156 for identification.

742 Q. Mr. Hamlin, referring to this paper that has now been marked for identification, Petitioner's Exhibit 156—

MR. FLANDERS: It is entirely immaterial to me whether the paper is marked as an exhibit or not, if at the time it is marked and before you examine the witness about it, it is submitted to me for inspection. If you don't want to do that, then I want it marked as an

exhibit for identification. But I want to know at the time the witness is questioned about it what is in the paper.

Q. Referring to this paper which you have produced and which has now been marked Petitioner's Exhibit 156 for identification, I will ask you to whom you sent copies or to whom you sent this circular that you framed up from this exhibit or circular which had been used by your predecessor?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I sent it to a number of northwestern paper mills or paper mills in the Northwest that I thought might desire to compete for our business.

Q. Was the circular which you sent out preserved in any way, or were copies taken of the circular letter which you sent?

A. No; I had this copy, which was a contract, and that caused me to retain that; but I didn't keep a copy of the letter I sent out because it was nothing but a circular.

Mr. OLDS: Petitioner offers in evidence Petitioner's Exhibit 156, which has been so marked for identification.

Objected to by defendants for the same reasons.

Q. About how many of these circular letters did you send out in 1900, Mr. Hamlin?

743 Same objection by defendants.

A. I sent out at least six or eight.

Q. To paper mills in the Northwest?

A. Yes, sir.

Q. Did you send to any of the mills that are in the General Paper Company at the present time?

Same objection by defendants.

A. Yes, sir.

Q. Do you remember what mills you sent the circular to?

A. I sent to the Dells Pulp and Paper Company, I think to Kimberly & Clark; there was another mill in northern Wisconsin, the name of which I have forgotten now; I think it is on the Wisconsin Central, but I don't recall the name of it, it is so long ago.

Q. Did you get any replies to these circular letters?

Same objection by defendants.

A. No replies whatever.

Q. And what did you then do with reference to making a contract in the spring of 1900?

Same objection by defendants.

A. Well, I didn't do much of anything.

Q. Well, what happened?

A. Mr. Nelson and Mr. Kraft came down to see me. They stated they had to raise the price quite materially.

Mr. FLANDERS: Wait a minute. I object to the statements of Mr. Nelson and Mr. Kraft because there is no evidence in the record that warrants the claim that either was authorized to bind either of the defendants, and as irrelevant, incompetent and immaterial.

Q. Go ahead and state the negotiations, Mr. Hamlin.

744 A. Well, there wasn't much negotiation that year. I had taken charge and was very busy, and this paper question was on me before I hardly realized it. I had succeeded in getting no bids from any other mill, and Mr. Nelson assured me that he was giving me as fair a price as any one had, and I signed a contract for \$2.25.

Mr. FLANDERS: Did you testify to when that was?

WITNESS: That was in the latter part of April or early in May, 1900.

Mr. FLANDERS: Any way of fixing the date?

WITNESS: I think the contract is here.

Mr. OLDS: I will fix the date, Mr. Flanders.

Q. You made a contract with Mr. Nelson at that time?

A. Yes sir.

Mr. OLDS: I ask to have that contract marked for identification. The same was marked and handed to Mr. Flanders.

Mr. FLANDERS: Now, if you submit these to me before you hand them to the witness I don't care whether they are marked for identification or not.

Mr. OLDS: Oh, I don't care when it is marked.

Q. I show you paper, marked for identification Petitioner's Exhibit 157; is that the contract you made with Mr. Nelson in 1900?

A. Yes sir.

Mr. FLANDERS: Fix the date of it, Mr. Olds.

WITNESS: 14th of April, 1900.

Mr. OLDS: The contract shows for itself.

Mr. FLANDERS: I know, but it doesn't appear on the record.

745 WITNESS: A little earlier than I thought it was. I said it was the last part of April or first of May. It is the 14th of April.

Q. I call your attention to some pencil notations on the face of the contract and some lines where a pencil has been drawn through, corrections made. Do you know what those represent?

A. Yes sir, I made those pencil notations the next year as a basis of drawing the contract with the Northwest Paper Company.

Q. In other words, you used—

A. I used that to dictate the other contract and made my notations in pencil before dictating it.

Q. So those pencil marks on the exhibit—

A. Have no bearing upon that contract.

Q. Have no bearing on the contract with the Hennepin Paper Company in 1900 at all?

A. Not at all.

Q. And that contract with the company is all as originally written in type-writing and in ink?

A. Yes sir.

Petitioner offered in evidence Petitioner's Exhibit 157.

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. Did you have any talk with Mr. Nelson at the time of the making of the contract, about price or terms of sale?

Mr. FLANDERS: I renew the objection, and also object for the reason that it appears affirmatively that this contract was made before the General Paper Company was in existence.

A. I don't recall very much of the conversation with Mr. Nelson. As I say, it was the first year I was in charge, and the matter came on me unexpectedly. He assured me he was giving me as good a price as there was. I think there was something said about conditions, that the mills had generally agreed to eradicate certain conditions of the contract which they considered unfair to them-

746 Q. Did he mention any particular conditions?

Same objection by defendants.

A. I think the matter of waste was one; I recall that one.

Q. At the expiration of your 1900 contract with Mr. Nelson, what did you do in regard to renewing your contract or making another contract?

Same objection by defendants.

A. I tried to find some place that I could buy paper cheaper. I went to New York and saw Mr. Dillon; I think he is president of the Great Northern Paper Company. He offered me a price of \$2.10 laid down in St. Paul, from (as I understood it) mills in Maine. The objection I had to buying paper in that way was the fact that the paper had to come over the Soo line, and the Soo line in those years had suffered, at times, very severely from blockades, and I foresaw that we would have to carry a very large amount of paper in storage here, and there would be a great many embarrassments in getting paper in that way. It would not pay to ship the steel cores back and we would have to change over and use wooden cores. But, at any rate, I had that price of \$2.10 when I came back to St. Paul. Mr. Dillon was very anxious to close the contract. I think they had a western agent, by the name of Mr. Mix, of Chicago. He came up here to see me at least once and tried very hard to get a contract; that is, he stated that he wanted to get into this territory.

Q. Did you make any other effort to get an outside bid?

Same objection by defendants.

A. Yes, I looked up every possible place.

Q. Did the Hennepin Paper Company come forward to renew the contract?

747 Same objection by defendants.

A. Mr. Kraft and Mr. Davis of the Dells Paper Company—the Mr. Davis who is dead; I have forgotten his initials—

Q. I think that was D. R. Davis.

A. D. R. Davis, and another gentleman, I think Mr. Babcock, but I am not sure, came in my office one day, and asked me if there would be any—

Mr. FLANDERS: Now, just one moment, Mr. Hamlin. I object to that for all the reasons stated and for the reason there is no foundation laid which warrants the claim that either Mr. Kraft or Mr. Davis or Mr. Babcock was authorized to bind either of the defendants.

Q. Go ahead. State what took place.

A. Mr. Davis stated that he was making the contracts for the General Paper Company that year in his section, that is, he was looking out for them generally, and asked me if they could make a contract with me, and I said yes, they could. There was no price mentioned that time and no further negotiations. I think the next day Mr. McNair and Mr. Wright came into my office. It was late in the afternoon, possibly between 4 and 5 o'clock, and they stated—

Mr. FLANDERS: Now, all the objections to the last question renewed to this question and to any statements by McNair and Wright or either of them.

WITNESS: That they had lost the Dispatch contract, and it was the intention of the General Paper Company to drive them out of St. Paul; that, under those circumstances, they wanted the Pioneer Press' business, and that I could name my own figure. I told them

748 that it was hardly business for me to name the price. We had just a little talk. They were very much excited. Finally they asked me not to close any contract without giving them an opportunity to bid. I promised them I would not. Some time after they had gone (not very many minutes) Mr. Kraft and Mr. Davis (I don't know whether Mr. Babcock was with them or not, but I suppose he was) came into the office and wanted to close a contract with me. I asked them what their price was, and they said the same price that they gave the Dispatch. I understood from them it was \$1.92 or \$1.95, something like that. I told them that I had promised to give the Northwest Paper Company a chance to bid. Mr. McNair came up the next morning, and offered a price of \$1.85. I accepted that and notified the other people that I had closed the contract.

Mr. FLANDERS: I move to strike this testimony out, especially as far as it relates to any statements by McNair, Wright, Nelson, Davis or Babcock, for all the reasons stated.

Paper marked Petitioner's Exhibit 158 for identification and handed to Mr. Flanders.

WITNESS: I desire to add to the statement, that after the others had gone, when we came to actually putting the contract in writing, Mr. McNair thought \$1.85 was too low, and I asked him what would be satisfactory, and he said \$1.87½ and the contract was made at \$1.87½.

Q. I show you Petitioner's Exhibit 158. Is that the contract you made with Mr. McNair at this time?

A. Yes sir.

Petitioner offered in evidence Petitioner's Exhibit 158.

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. At the expiration of the contract with the Northwest
749 Paper Company which you made in 1901, what did you do with regard to making a new contract?

Mr. FLANDERS: All objections renewed.

A. Well, I had heard some rumors about the Northwest Paper Company going into the General Paper Company, and I think I wrote Mr. McNair (I certainly telegraphed him) that I would like to see him. I believe I had an answer that he would be down shortly. But he didn't come, and finally I ran across him about 8 o'clock one night in the entrance of the Pioneer Press building.

Q. Can you locate the time when this happened?

A. About 8 o'clock.

Q. I mean the date. How long before the making of your contract in 1902?

A. Oh, it was perhaps ten days or two weeks.

Q. Go ahead then and state what happened.

Mr. FLANDERS: Now, I object to this as irrelevant, incompetent, immaterial, and I object to any testimony as to statements by Mr. McNair on the ground that there is nothing in the evidence to warrant the claim that any such statements bind any of these defendants. Can't you fix that date? Have you got the date of the contract?

Mr. OLDS: I have the date of the contract, and I will state for the information of Mr. Hamlin that the contract was dated 18th of April, 1902.

Mr. FLANDERS: Objected to for the further reason that it appears affirmatively that at the time stated the Northwest Paper Company had not made any contract with the General Paper Company.

750 Q. You may go ahead and state what took place, Mr. Hamlin.

A. I met Mr. McNair, as I say, about 8 o'clock. He was telephoning to Cloquet. I assumed at first that he had come down to see me. He said he was on his way to Chicago. I asked him if it was true that he was going into the General Paper Company, and he said yes, in a limited sort of a way. "But," he said, "I intend to take care of the Pioneer Press and the Journal. I am going down to Chicago now, and I will see you when I come back."

Mr. FLANDERS: I move to strike that out for all the reasons stated.

Q. Did you see him when he came back?

A. I don't know whether I saw him on his return from Chicago on that trip, or whether he came direct to St. Paul or not, but he and Mr. E. B. Mendsen appeared shortly after that, after this conversation, and we took up negotiations for the contract for the succeeding year.

Mr. FLANDERS: Same objection is repeated.

Q. Did you get any other bids for your contract other than that of the General Paper Company in 1902?

Objected to by defendants as incompetent, irrelevant and immaterial.

A. No, I couldn't locate any competition.

Mr. FLANDERS: I move to strike that answer out for the reasons stated and as not responsive to the question.

Q. What efforts did you make?

A. Well, I heard there was a new mill in New Hampshire; I investigated that, and they either were not making paper yet, or else there was something—they couldn't bid on it. I telegraphed
751 the Great Northern Paper Company, and Mr. Dillon replied that he was not in a position to bid.

Mr. FLANDERS: That telegram was in writing, I suppose?

WITNESS: Yes sir.

Mr. FLANDERS: I move to strike it out as not the best evidence.

Q. Did you get any bid from the Great Northern people?

A. No sir.

Q. Now, what other efforts did you make, if any, that year to get bidders?

Same objection by defendants.

A. Well, it is pretty hard to say at this date. As I say, I tried this New Hampshire mill and I tried Dillon. I think there was a mill at Watertown, New York, that I also tried.

Q. Did you get a bid from that mill?

A. No, I couldn't get anything.

Q. Is this paper, Petitioner's Exhibit 118, the contract which you made with the General Paper Company that year?

A. Yes sir.

Q. That was made where?

A. That was made in my office.

Q. And signed by Mr. Mendsen for the General Paper Company and delivered to you at that time?

A. Yes sir.

Q. Was anything said at the time by Mr. Mendsen about getting the approval of any mill for this contract?

Mr. FLANDERS: Same objection and as leading.

A. No sir.

Q. Have all of your contracts since then been made with the General Paper Company?

A. Yes sir.

752 Q. Have they all been made in the same way or not?

Mr. FLANDERS: Same objection, and calling for the opinion of the witness.

A. I don't understand.

Q. I mean have they been made, signed and delivered in the same way as this 1902 contract?

Same objection by defendants.

A. No; the two succeeding contracts were delivered at the General Paper Company's office in Chicago. I think one of them was signed in Chicago, right at the office, and delivered there, and the ones this year were signed here, but I took the General Paper Company's copies to Chicago and gave them to Mr. Allen or Mr. Davis. I think I delivered them to Mr. Allen. Last year I delivered them to Mr. Davis.

Q. At the time of the making of any of these contracts, was anything said by anybody representing the General Paper Company, at that time, about getting the approval of any mill or manufacturer to the contracts?

Mr. FLANDERS: All objections renewed.

A. No sir.

Q. Since 1902 have you been able to get any competitive bids for your contract?

Objected to by defendants as irrelevant, incompetent, immaterial, and calling for the opinion of the witness.

A. No sir.

Q. The General Paper Company has been the sole bidder, has it?

Same objection and as leading.

A. Yes sir.

Q. In 1903 did you have any negotiations with the General Paper

753 Company, or conversations with any of the officers or agents of that company, on the subject of prices and terms?

Mr. FLANDERS: All objections renewed.

A. I saw Mr. Stuart perhaps two or three times.

Q. Is that the year your contract was made in Chicago, 1903?

A. 1903.

Q. That is this contract, Petitioner's Exhibit 119. (Showing same to the witness.)

A. No, that was made here and delivered here.

Q. You say you saw Mr. Stuart in 1903, did you?

A. Why, I protested to Stuart, that I thought he was jumping us a little hard, but he thought he wasn't. I also was very much dissatisfied with the mill, and I tried my best to have my contract shifted to some other mill.

Mr. FLANDERS: I move to strike that out as not responsive to the question, irrelevant, immaterial, and containing merely the opinion of the witness.

Q. What request did you make of him in regard to the source of supply of your paper?

Mr. FLANDERS: All objections repeated.

A. I was desirous of having the contract shifted to the Hennepin Paper Company, with whom we had done business for a number of years.

Q. What did Stuart say to your request?

A. Stuart said that Mr. Nelson could not handle it. I went over to the annex and saw Mr. Nelson, and he said he could handle it. So I got Nelson to accompany me back to see Mr. Stuart. Mr. Nelson told Mr. Stuart that he could handle the business and would be glad to have it. Thereupon Mr. Stuart pulled out some book, looked it over and said that he didn't have anything else as
754 good to give Cloquet, and that he couldn't make any change.

Mr. FLANDERS: Have you located this time?

Mr. OLDS: This is in 1903 some time, as I understand.

WITNESS: In 1903.

Mr. FLANDERS: Can't you fix the time?

Q. Can you fix the date any more accurately than that?

A. It was in the warm months, June or July I think. I wouldn't be positive about that. I know Mr. Nelson was in Chicago, I think it was to attend a lumbermen's meeting.

Q. Some time in the summer, then?

A. I think it was. It was in a warm month, but I wouldn't be positive as to the exact date. I saw Mr. Stuart a number of times.

Q. Have you told all the negotiations you had with the General Paper Company or its officers in 1903, that you remember?

A. In 1903?

Q. Yes.

A. In 1903 I tried to find some independent mill, and I was told that there was an independent mill at——

Mr. FLANDERS: I object to that for all the reasons stated and as hearsay.

WITNESS: —at Alexandria, Indiana. I wrote this mill——

Mr. FLANDERS: I object to the statement of the contents of any letter written by the witness on the ground that the letter itself is the best evidence.

Q. You need not state the contents of the letter, Mr. Hamlin. Did you get any reply to the letter?

A. Yes, I got a letter asking——

Mr. FLANDERS: I object to the statement of the contents of the reply; that the letter itself is the best evidence.

755 Q. Did the mill make a bid on your contract?

Mr. FLANDERS: That is objected to for the same reasons.

A. No, they never answered my second letter.

Q. You wrote them the second time, did you?

A. Yes sir.

Q. And did you get a reply from them to that letter?

A. No sir.

Q. Who represented the General Paper Company when you made your contract in 1903, do you remember?

A. Mr. Mendsen.

Q. Did you have any talk with him at the time of making the contract?

A. Yes sir.

Q. What was it?

Mr. FLANDERS: All objections repeated.

A. Mr. Mendsen came into the office one forenoon and said that he wanted to make a contract while he was there. I said it was a little too early. Well, he said he was up here and he would like to finish it up, and he submitted a price. I said to him in sort of a joking way, "How much are you going to hold us up for?" He said he thought that wasn't a very nice way to put it. I told him it was practically the same thing, we couldn't get any bid anywhere else. He said, "Why don't you try the mill at Alexandria, Indiana?"

Q. Was this after you had written to Alexandria?

A. Yes sir. I didn't say that I had or that I had not. I didn't know whether it was a guess on his part or not. I protested against the price that he offered as being outrageous and unfair. He finally informed me that I could accept it by four o'clock or he would

756 take no responsibility as to my getting any paper.

Q. Did you accept it?

A. No. We had a rather heated discussion, and finally I said that I would not sign it, and he said all right, he would withdraw it. He went out and was gone for two or three hours, and came back about half past 3 or 4 o'clock, and stated that he had telephoned the General Paper Company in Chicago, that they wanted things fixed up, and fixed up immediately, and that he would submit another price. I accepted that price.

Q. Did he make a lower price then?

A. He made a lower price then.

Q. That is the price mentioned in the contract that you made, is it?

A. Yes sir.

Mr. FLANDERS: I move to strike that testimony all out for the reasons stated.

Q. I show you Petitioner's Exhibit 120. Is that the contract you made in 1904 with the General Paper Company?

A. Yes sir, that contract was made in Chicago.

Q. That is the one that was made in Chicago?

A. Yes sir.

Q. Who represented the General Paper Company in making the contract?

A. Mr. Mendsen had been up here to see me, and that contract, just as it was there, was agreed to here in St. Paul. I had heard that the Dispatch was—

Mr. FLANDERS: I object to the witness stating what he heard, as hearsay testimony.

Q. Well, you can leave out what you heard there and state what took place between you and Mr. Davis—or Mr. Mendsen, I believe you are talking about.

A. No, Mr. Mendsen had gone back, had left St. Paul. I
757 believed that there was a lower price here in St. Paul than I was being given.

Mr. FLANDERS: I move to strike that out as irrelevant and immaterial.

WITNESS: I went down to Chicago and asked Mr. Davis if he couldn't reduce the price, so that it would stand me about \$2.18.

Mr. FLANDERS: You don't identify the Davis. There has been another Davis spoken of.

WITNESS: This is John Davis.

Q. The present general manager of the company?

A. Yes sir. He said he couldn't, that they were treating everybody the same, I said, "That is all I want to know. If you give everybody the same deal I have no kick coming. It leaves competition normal between us." He assured me that we were getting just as low prices as anybody else up here, and I signed the contract and he signed it there, instead of Mendsen, and I brought that copy home.

Q. Did you ever have any other talk with Davis in 1904 as to the price of news print paper?

A. I had a conversation with Davis prior to making this contract.

Q. Where?

A. Here in St. Paul, in my office.

Q. In 1904?

A. Yes sir.

Q. Did you discuss the subject of prices generally with him at that time?

A. Yes sir.

Q. What was said there?

Mr. FLANDERS: That is objected to for the same reasons.

A. I told him that, of course, he had us in a corner, but I didn't object to his raising the price so much as I did his making a different price to different papers in the same territory, that it prevented normal competition. We had a long and friendly talk about 758 matters, going into past differences. I had always wanted to change the mill that supplied me, and we patched that up; and he stated in the course of the conversation that he didn't think that he treated us so very badly, because he could raise the price to 3 or 4 cents just by turning over his hand.

Q. What do you mean—3 or 4 cents a pound or a hundred pounds?

A. Well, he could raise it to \$3.00 a hundred or \$4.00 a hundred.

Q. Did you ever have any talk with Mr. Stuart on that subject of getting as good a price as your competitors?

Mr. FLANDERS: That is objected to for all the reasons heretofore stated.

A. Yes, I protested to Stuart.

Q. When?

A. In 1903, probably 1902.

Q. It was earlier than this talk with Davis?

A. Oh yes.

Q. Can you locate the year by any other facts?

A. Well, I had a talk with Stuart in 1903.

Q. Did you have as good a price with him as your competitors?

A. I think that was the time, yes.

Q. When was it—in the spring, or fall, or summer?

A. It was in the summer.

Mr. FLANDERS: What year?

WITNESS: 1903.

Q. Where did this talk take place?

A. In Chicago, in his office.

Q. And what occurred?

Mr. FLANDERS: All objections repeated.

759 A. I told Stuart that I didn't object to the raising of the price so much as I did the giving one price to one paper and a different price to another paper in the same field; that he was interfering with the local conditions and upsetting fair and normal competition, and that I thought that was the criticism that could be made on the General Paper Company. He said that that had never occurred to him, but he would take it up with the General Paper Company counsel.

Q. Did you get any assurance from him on the subject one way or another?

A. Assurance from Stuart?

Q. Yes.

A. No.

Q. I believe you have already stated that your 1905 contracts were made in the same way as your previous contracts. Were they made in St. Paul or Chicago?

A. They were made here and delivered in Chicago. I took them down and gave them to Mr. Allen, I think.

Q. You signed them and took them down. Had they been signed previously by the General Paper Company, or were they signed in Chicago by the General Paper Company?

A. No, they were signed here by Mr. Allen.

Q. They were left with you?

A. Left with me.

Q. And I notice you made two of them, one for the Pioneer Press and one for—what is the other one for?

A. The Northwestern Newspaper Union.

Cross-examination.

By Mr. FLANDERS:

Q. You have been somewhat active, Mr. Hamlin, in urging this prosecution of the General Paper Company and these defendant mills by the United States of America, have you not?

760 A. I introduced a resolution at the American Publishers Association last year.

Q. Requesting the Government to bring an action of this kind or of some kind?

A. I forget the exact wording of the resolution. It was an impromptu matter, and I think the resolution rather called for an examination as to the feasibility of such action, something of that sort.

Q. And appropriating a sum of money for that purpose, did it?

A. No sir. You mean this resolution?

Q. Yes, or suggesting the appropriation of a sum of money for that purpose?

A. I don't think this resolution did.

Q. Well, was a sum of money appropriated for that purpose, as you understand it?

Mr. OLDS: Appropriated by whom? The Government or who?
Mr. FLANDERS: By anybody.

A. No, by the American publishers. I think there was some talk of making an assessment to raise some money to agitate reduction of the tariff. I don't think it was to bring this action.

Q. Well, we are all interested in reducing the tariff.

A. Most of us western people.

Q. I haven't anything to say about that fund. Was there a fund suggested in that association, to be raised by the publishers, for the purpose of assisting pushing or urging a prosecution of this kind?

A. Now, Mr. Flanders, it is pretty hard for me to answer that. There was general discussion on paper conditions; in fact I think there had been some discussion at every meeting, and I think
761 there was some talk about raising a fund for a reduction of the tariff, but I do not think there was any money appropriated—I know there was no money appropriated. It seems to me that it was left in this form: that the committee should make such assessment as they thought wise or proper to pay for some current little printing bills and that sort of thing.

Mr. KELLOGG: May I suggest that if you have a way of finding out just exactly what was done, that it would be better for you to inform yourself.

WITNESS: I could look up the records of the meeting.

Mr. KELLOGG: I suggest that Mr. Hamlin do so, and then let him state the facts.

Mr. FLANDERS: I have no objection to Mr. Hamlin refreshing his recollection any way he wants to. Do you want to do that, Mr. Hamlin?

WITNESS: Why, if you wish me to.

Mr. FLANDERS: It is immaterial to me. I am willing to take your recollection as it is now, or have you refresh your recollection.

Mr. KELLOGG: I would rather he would be accurate about it.

WITNESS: All right; I think very likely I can find the records of that meeting.

Q. Were you a member of a committee so appointed, if there was a committee appointed?

A. Yes sir.

Q. And you have been somewhat active in assisting the Government in pushing this case, haven't you?

A. Well, I don't know; not more so than other newspaper men.

Q. Well, whether more so or less so, you have been somewhat active in that direction, haven't you?

A. I don't think I have done any more or less than anybody else.

762 Q. I am not talking about whether you have done more or less, but whether you have been somewhat active in that direction.

A. Yes.

Q. I am not comparing your efforts with anybody else.

A. Well, if you choose to consider it activity, yes sir.

Q. It isn't what I choose to consider it, but what you consider it, because my opinion wouldn't be of any value.

A. Well, outside of introducing a resolution, I have been no more active than any other newspaper man.

Q. Now, Mr. Hamlin, excuse me for being a little more persistent, but I am not comparing your activity with that of anybody else. I don't care whether anybody else has been active or inactive, but whether you yourself have been somewhat active in pressing this case that is now under consideration.

A. Well, I would just as leave answer that any way you want me to.

Q. Well, I haven't any choice about it at all. Any kind of an answer will suit me—any old thing.

A. Well then, all right, I have been active.

Q. All right. Now I have got an answer to it. Where is that circular that you had?

Mr. OLDS: The first circular he sent out?

Mr. FLANDERS: Yes.

The circular was handed to Mr. Flanders.

Q. Was the circular which you sent out identical with Petitioner's Exhibit 156, or did you draft it from this one?

A. I couldn't say whether it was identical or not.

Mr. FLANDERS: Then, on the statement of the witness I move to strike out Petitioner's Exhibit 156 for the reason that it does not even purport to be a copy of the circular which the witness sent out.

763 Q. Now, such circular as you did send out—you said you sent it out to six or eight people, and that was in the year 1900?

A. Yes sir.

Q. And to whom did you send them?

A. Well, I sent them to six or eight mills; the Kimberly & Clark mill, the Dells Paper Company. I don't recall the others. There was no reason why I should make a record of them.

Q. And of course those were sent out before you entered into your contract?

A. Yes sir.

Q. And you got no replies, as I understood you?

A. No sir.

Q. Now, this contract of 1900 was dated April 14, 1900, as appears by Petitioner's Exhibit 157. That is right, isn't it (handing contract to witness).

A. Yes sir, that is right.

Q. And your circulars were sent out some time before that contract was entered into?

A. A little while, yes sir.

Q. And you got no replies at all from anybody?

A. I don't recall any.

Q. Well, that didn't disclose any very active competition at that time, did it?

A. No sir.

Q. And that, according to the record here, was at least a month before the General Paper Company was in existence. The General Paper Company, it has been shown over and over again, was organized on the 26th of May, 1900, and April 14 was a month and a half prior to that, and your circulars were a month and a half before that, or were some time before that. That didn't disclose any very active competition existing before the organization of the General Paper Company, did it?

A. Why, they might possibly have had some preliminary meetings.

Q. They probably might have had green cheese in the moon, too; but did or did not that disclose to your mind any active competition at the time you sent out these circulars and prior to the execution of this contract?

A. Why, it disclosed no competition. There is no question about that.

Q. I suppose you regard the General Paper Company as responsible for the lack of competition prior to April 14, 1900, don't you?

A. How is that?

Q. You regard the General Paper Company as responsible for that lack of competition prior to April 14, 1900?

A. Well, I regard the preliminary negotiations as responsible for it.

Q. Have you any knowledge of any preliminary negotiations—personal knowledge I mean, not what you have been told?

A. I only have Mr. Nelson's statements.

Q. Did you hear Mr. Nelson's statement here yesterday?

Mr. KELLOGG: He didn't hear any because Mr. Nelson refused to make any.

Q. On that subject.

A. I don't remember, judge.

Q. Were you here when he gave his testimony or while he was being examined?

A. I was here part of the time, yes sir.

Q. Did you hear him say that he took no part in any preliminary negotiations until the time of the organization of the General Paper Company?

Mr. OLDS: I don't think he said that, anyway.

A. Mr. Nelson told me that year that the paper men had agreed to eradicate certain conditions which they didn't like, so they must have held some meetings somewhere.

Q. Oh, that is it? Now, when was it that you got the price of

\$2.10 from Mr. Dillon? Was Mr. Dillon the man who gave you the price of \$2.10 from the mill in Maine?

A. Yes sir.

765 Q. What year was that?

A. That was the year I made the contract with the Northwest Paper Company.

Q. And that was—

A. 1901.

Q. The year you made this contract, Petitioner's Exhibit 158. (Showing exhibit to witness.)

A. Yes, sir, I think it was that year.

Q. So that there was competition in 1901, wasn't there?

A. Well, there was no competition in the West, and that is the reason I went to New York hunting for competition.

Q. Well, it doesn't make so very much difference where the mill is located as long as it is delivered to you here at \$2.10, does it? If it was located in Kamschatka and it was properly delivered at \$2.10, on the premises of the Pioneer Press, it would be just as well as if it had been manufactured in Michigan, wouldn't it.

A. If a Maine mill could deliver here for \$2.10, a mill in Cloquet or Little Falls ought to deliver for a little less.

Q. I am not arguing that proposition, but I am asking you whether that did not in itself disclose competition?

A. Yes sir, limited competition, at a distance.

Q. And did you also have bids from the Great Northern?

A. That was the Great Northern.

Q. Oh, that was the Great Northern?

A. Yes, sir.

Q. The Great Northern mill was in Maine; I thought that was in Michigan.

A. As I understand it. I may be talking about something now that I don't know. I understood the Great Northern Company had a lot of mills. As I understood Mr. Dillon, he would put paper down in St. Paul from the mill, all the way by rail, over the Canadian Pacific and Soo, at \$2.10. I understood the General

766 Paper Company controlled all the mills here and I could get no bids, and I wanted some price to protect myself as far as I could.

Q. You say Mr. Dillon was the Great Northern, or identified with it?

A. I believe he was president.

Q. Is that the Great Northern Paper Company, or what? What is the name of it, if you know?

A. I have always understood it was Great Northern Paper Company. I may not be exact as regards the title.

Q. Going back to the contract in 1901. The contract is dated the 22nd day of April, 1901, and was executed by the Northwest Paper Company. Now it is in evidence here that the Northwest Paper Company didn't make any contract with the General Paper

Company until, I think, May 15; at any rate, in May, 1902. Were you aware of that fact?

A. When I made that contract with them?

Q. No, now; are you aware of it now?

A. Which contract is that?

Q. This is April 22, 1901. (Handing the contract to the witness.)

A. Was I aware that they were not in the General Paper Company?

Q. Yes, when you gave your testimony now.

A. Yes sir.

Q. Today.

A. Yes sir.

Q. And you were aware of it at that time, weren't you?

A. Why, I made the contract with them on Mr. McNair's statement that I ought to stand by an independent mill, that they were the only ones who made competition. It was a question of public policy.

Q. And you were aware of it at that time, and the Northwest Paper Company at that time was in sharp competition with the General Paper Company, wasn't it?

A. Yes sir, I understood so.

767 Q. And you hadn't any doubt about it; you had no doubt but what they were actively after your trade at that time?

A. They were after they lost the Dispatch contract. Up to that time they couldn't take my contract; so, as far as I was concerned, they were out of existence.

Q. At the time they took your contract, and prior thereto, they were in sharp competition with the General Paper Company for your contract, weren't they?

A. From the time they took my contract, as far back as the date when they lost the Dispatch contract, they were in very active competition for it.

Q. Now then, your contract in 1903. Please look at the date of that contract (handing contract to the witness).

A. 16th of April.

Q. Yes. Now this time when you had the interview with Mr. Stuart, in Chicago, in which you said you were desirous of having the contract shifted from the Northwest Paper Company to the Hennepin Paper Company, you said was in warm weather, in June or July, 1903?

A. Yes sir.

Q. You were then under contract by the terms of which you were governed at that time, were you not?

A. Yes sir.

Q. And that contract had been taken by the Northwest Paper Company, and had already, down to that date, the Northwest Paper Company been supplying you with paper under that contract?

A. The contract was with the General Paper Company and the paper came from the Northwest mill or the Cloquet mill.

Q. And were you aware of the fact that the Northwest Paper Company had accepted this contract made on its behalf by the General Paper Company?

768 A. I don't know anything about the internal organization of the General Paper Company.

Q. Well, you would not expect the General Paper Company to shift from the Northwest Paper Company to the Hennepin Paper Company if your contract had already been accepted by the Northwest Paper Company, would you, without the consent of the Northwest Paper Company?

A. If the General Paper Company was getting the same price from two different papers right here, I don't see any objection to their shifting as a matter of personal accommodation.

Q. Wouldn't you think it would make some difference whether the Northwest Paper Company had entered into a contract by which this supply to your paper was its property?

A. I had no knowledge of any such thing.

Q. No, I don't say you had any such knowledge, but if it is the fact that at or subsequently to the date of this contract of April 16, 1903, the Northwest Paper Company had accepted this contract as its contract and agreed to fulfill the terms of it, would you think that Mr. Stuart of the General Paper Company could change that mill without the consent of the Northwest Paper Company?

A. Well, he said he could not because he hadn't anything else as good to give them.

Q. I am not talking about what he said, but I am asking you whether, under the facts as I have stated them, assuming them to exist—I don't ask you to state whether they did exist or not, but assuming that those facts existed, would you think that the General Paper Company could shift from the Northwest, which had the right to supply your contract, to the Hennepin, which didn't have the right, without the consent of the Northwest?

A. I think that would depend entirely on the relations between the Northwest mill and the General Paper Company.

769 Q. Well, I have stated a supposititious case.

A. That there was a contract between the General Paper Company and the Northwest?

Q. Yes.

A. No; I presume under those conditions they would not.

Q. When was it you said you had this talk with Mr. John A. Davis, in which you said he said he could raise the price, by turning over his hand, three or four cents a pound? In what year was that?

A. That was last year.

Q. And where?

A. In my office, Pioneer Press building.

Q. Anybody there besides you and Mr. Davis?

A. Yes sir.

Q. Who?

A. Mr. Dobson, superintendent of the Northwestern Newspaper Union.

Q. What is Mr. Dobson's first name?

A. John.

Q. St. Paul man?

A. Yes sir.

Q. And when was it with reference to the time that this contract of 1904, Petitioner's Exhibit 120, was made—before or after that?

A. That this conversation with Davis took place?

Q. Yes.

A. Before.

Q. How long before?

A. When was that contract, judge?

Q. April 19, 1904.

A. Well, I think it was some time in March; I am very sure it was in March.

Q. Well, you knew at that time that there were various competitors in the field, did you not, Mr. Hamlin?

A. At the time I had the talk with Davis?

Q. Yes.

A. I couldn't find any competitors in our field.

Q. Well, at a price, at any rate. You knew that paper could be had elsewhere, didn't you?

A. I presume anything can be had for a price.

770 Q. Yes, that is what I think too. You knew of the existence of the International Paper Company, of course?

A. Yes sir.

Q. And they did sell more or less paper in Chicago and west of Chicago, didn't they?

A. I understand so. I don't think they ever sold up here.

Q. And you knew of the Manufacturers Paper Company, didn't you?

A. I have heard of such a company, yes sir.

Q. And you know that they have an office in Chicago, don't you? You know they have maintained a western office there for some years, do you not?

A. Is that Mr. Brocklebank?

Q. One Mr. John C. Brocklebank.

A. I knew they had an office three or four years ago; I have had no personal knowledge of it since.

Q. Of course your general knowledge of the newspaper business and the paper trade,—you have kept track' of it enough to know that the Manufacturers Paper Company maintained an office in Chicago all the time, haven't you, in a general way?

A. I presume, yes sir.

Q. And the very year before you got a bid from the Great Northern at \$2.10 laid down in the Pioneer Press building, by the Maine mill, didn't you?

A. Yes sir. I think that was the previous year.

Q. And you——

A. Just one minute, judge. What year are you referring to now?

Q. Why your talk with Mr. John A. Davis, in which you say by the turning of the hand he was going to raise the price of paper 3 or 4 cents a pound, before April 9, 1904.

A. Yes sir. No, the previous year I didn't have an offer from the Great Northern.

771 Q. What year was that?

A. That was 1901. In 1902 the Great Northern wouldn't submit a bid.

Q. Oh! 1903, how was that?

A. 1903 I didn't try them.

Q. You didn't make any effort at all?

A. With the Great Northern?

Q. With anybody.

A. 1903?

Q. Did you or didn't you?

A. Oh yes, I tried that Alexandria mill.

Q. Anybody else?

A. That was the only one that I heard of.

Q. Well now, Mr. Hamlin, of course, as the business manager of the Pioneer Press, you try to keep in touch with the different mills that supply news print paper, don't you,—know who they are, at any rate?

A. Yes sir.

Q. Well, do you know of the existence of the Outagamie Paper Company at Kaukauna, Wisconsin, manufacturing news print paper, in 1902-'3-'4?

A. No sir.

Q. You didn't know of them.

A. No sir. What is the name, Judge?

Q. Outagamie.

A. No.

Q. Well, you knew of the Winnebago mills at Neenah, Wisconsin, didn't you?

A. Yes, sir, heard of them.

Q. You didn't ask them for any bid?

A. No sir. What year was that?

Q. Well, either of those years, 1902, 1903, or 1904. Didn't ask them for any bids, did you?

A. No sir.

Q. Or the Cheboygan mill at Cheboygan, Michigan; you knew that, didn't you?

A. Yes sir.

Q. You didn't ask them for any bid, did you?

A. No sir.

Q. Nor the Patton Paper Company, at Appleton, Wisconsin?

A. No sir.

772 Q. You knew of them, didn't you ?

A. I am not sure that I did.

Q. Well, you could easily have found out about these mills, couldn't you ?

A. Perhaps so.

Q. Well, as a matter of fact, Mr. Hamlin, the record in this case discloses that none of these mills were clients of the General Paper Company, and some (at least) of them you knew about, but you didn't even take the trouble to write to them, did you ?

A. I knew in a general way ; I knew there were such mills.

Q. You didn't even take the trouble to write to any of these, did you ?

A. No sir.

Q. Well, you weren't very active in stirring up competition with the General Paper Company, were you ?

A. Well, I was as active as I thought I could be.

Q. Well, it would occur to you, thinking about it now, that it would have been a good plan to apply to these mills which I have called your attention to, wouldn't it ?

A. I talked to other newspaper men and they knew of no mills, and they had investigated.

Q. You don't investigate as to whether a mill will bid or not by asking somebody else, do you ?

A. I think so, if a man had just been around looking for independent mills and hadn't found any.

Q. You knew of these independent mills but didn't take pains to ask them whether they would make a bid or not ?

A. No, I didn't ask them.

Q. Now, as a matter of fact, the service of the General Paper Company to the Pioneer Press has always been satisfactory, hasn't it, as a rule ?

A. Well, it has been for the last two years ; it has been very satisfactory.

773 Q. Good quality of paper ?

A. Yes sir. Of recent years, the last two years.

Q. And you have always had your paper when it was required ?

A. Yes sir, I think so.

Q. Well, you said it was satisfactory. That covers it. Now, the fact of the matter is that there has been a general raise in expenses and prices since 1900, has there not, in the community generally ?

A. In some things and in some things not,

Q. Well, there has been a raise in your business, in the price of labor, hasn't there ?

A. Yes sir, a slight raise.

Q. How much ?

A. Not to exceed, at the outside, 10 per cent. I don't think it is as much as that.

Q. Raise of 10 per cent. over what it was when ?

A. Oh, perhaps 1896 or 1897.

Q. But you were not in this business in 1896 or 1897, were you?

A. I have been in the newspaper business all my life.

Q. Not here?

A. Yes sir, substantially.

Q. You went with the Pioneer Press, I think you said, in December, 1899, or in the fall of 1899.

A. Oh no. I went with the Pioneer Press, I think, in the fall of 1889. I have been with the Pioneer Press Company 16 years.

Q. Oh, 1889?

A. Yes sir. I wasn't general manager until December, 1899, but I had been associated with them; I became general manager in December, 1899.

Q. I suppose there has been an increase in the rates of advertising, hasn't there?

A. Well, I am sorry to say it has not been very large.

Q. Well, still there has been an increase?

A. There has been no increase in the selling price of the paper.

Q. You mean the individual copy?

A. Yes.

774 Q. But I am speaking of the advertising rates.

A. Advertising rates have advanced some.

Q. How much?

A. I wouldn't want to state offhand.

Q. Well, I don't mean exactly, but approximately.

A. I would rather look it up, Judge, and be exact.

Q. Well, it isn't of enough consequence to spend very much time on. However, if you are looking this other matter up—

A. The advertising rate is based, to a certain extent, on circulation; so it is not a question of the supply of a commodity.

Q. If you are looking up this other question for Mr. Kellogg, and care to, why, you can look this up also. I think that is all.

Redirect examination.

By Mr. KELLOGG:

Q. The price of your paper sold to the public has decreased, hasn't it?

A. Yes. I don't know when the price was cut; it is a long time ago.

Q. From 5 cents to how much?

A. To 2 cents.

Q. Has the price of your machinery, presses and such things, increased in the last 5 years?

A. I think not.

Q. Generally, has the price of things that go into your paper, except paper, increased?

A. Outside of labor, I think not.

Q. You say the service of the company is satisfactory. Has the

weight been satisfactory—the weight of the paper furnished by these mills? Hasn't it increased?

A. The weight increased?

Q. Yes.

A. Yes, the weight was increased from 30 to 32 pounds.

775 Q. That has never been changed?

A. No.

Q. How was the service two years ago by the General Paper Company?

A. When we first went with the Cloquet mill the paper was not very satisfactory, but it has become a great deal better; in fact, I have no complaint to make; I guess they make it good weight.

Q. Now, Mr. Hamlin, after about the time the Northwest Paper Company went into the General Paper Company was *their* any competition in this territory? Did anybody offer you paper?

A. No, sir.

Objected to by defendants as irrelevant, incompetent, immaterial, calling for the opinion of the witness, and on the ground that the subject has already been gone over.

Q. Take the Outagamie Paper Company. Any agent of that company ever call on you?

A. No sir.

Q. Offer any paper to you?

A. No sir.

Q. In this territory, that you know of?

A. No sir.

Q. Know of anybody here that ever bought any of them?

A. No sir.

Q. The Winnebago Company paper mills?

A. No sir.

Q. They offer you any paper?

A. No sir.

Q. Any agent or commission-man of that company offer you any paper here?

A. No sir.

Q. Anybody here bought any that you know of?

A. No sir.

Q. The Cheboygan mills the same?

A. Yes sir.

Q. How about the Patton Paper Company?

A. I don't know; I never saw anybody from those mills.

Q. Did the International Paper Company offer any paper here since that time?

A. No sir, not to my knowledge.

776 Q. How do you inform yourself as to whether you can get paper or not?

Objected to by defendants for all the reasons stated.

Q. That is, I want to know whether in years past it has been customary for agents of manufacturers to call on the newspapers, if you know.

Mr. FLANDERS: All objections repeated, and also that it is a leading question.

A. Up to 1900, yes.

Q. Has there been anything of that since then?

A. No sir.

Q. Now this Exhibit 156, I wasn't here when the testimony was put in—you ask him as to that, Mr. Olds.

By Mr. OLDS:

Q. Is the circular which you sent out materially different from this exhibit?

Objected to by defendants as irrelevant, incompetent, immaterial, and calling for the opinion of the witness.

A. No sir.

Q. What substantial changes, if any, did you make?

Objected to by defendants for the same reasons and that the circular sent out is the best evidence of what changes were made.

A. I didn't make any substantial changes.

Q. That is practically the same as the one you sent out?

Same objection, and as leading and suggestive.

A. Practically the same circular.

777 Recross-examination.

By Mr. FLANDERS:

Q. When was it, Mr. Hamlin, that you cut the price of the individual copy of the paper, about how long ago?

A. It must be fifteen years ago, isn't it? The other newspaper men here would remember that better than I.

Q. Well, in that neighborhood, wasn't it?

A. I think so.

Q. Long before the General Paper Company was organized?

A. Oh yes.

Q. They didn't cause you to cut it, did they?

A. Oh no.

Q. That is one of the things they didn't do?

A. That is one of the foolish things we did ourselves.

Q. Well now, Mr. Hamlin, you know as a man, you know from your general information that there has been a decided increase in nearly all kinds of products since 1897, 1898 and 1899, don't you, not confining it to printing-presses?

Mr. KELLOGG: Now if you know that.

A. I don't know it, Judge.

Q. Now, from your general information, isn't that the fact? The cost of living, and the cost of building, and the cost of meat, and the cost of the necessities of life, and clothing, have been increased?

Mr. KELLOGG: Since what time?

Mr. FLANDERS: Since 1896, '7, '8 and '9, thereabouts.

Mr. KELLOGG: What about 1900?

Mr. FLANDERS: You will have an opportunity to ask him any question you want to, Mr. Kellogg.

Mr. KELLOGG: Well, I want you to fix the time.

Mr. FLANDERS: I have fixed it.

Mr. KELLOGG: '6, '7, '8, '9—that isn't definite.

778 Mr. FLANDERS: If it is not definite the witness can make the objection.

WITNESS: I think there was a slight increase after 1896.

Q. What do you call a slight increase?

A. Why, I think I am not a competent witness on that. If you will name some specific thing I could say yes or no.

Q. Well, the cost of living. Has it or has it not increased since 1896, '7, '8 and '9, generally?

A. I don't think I could testify to that, Judge.

Q. You have no information on that subject?

A. I have no information. My general impression is that it has advanced some.

Q. What do you base your impression on—information or guess or what?

A. Well, from what I hear I suppose, in an indirect and general way.

Q. Well, this is a broad question. Information on a matter of that kind comes to you from general knowledge and reading and what you know of what people say. I am addressing it to your general information. Are you prepared to say that it has not increased?

A. Oh no.

Q. Well, aren't you prepared to say that there has been a very general increase in the cost of living, generally?

A. Well, I live in such a way that I am not a good—

Q. Oh, I am not talking about your cost of living at all; I am not making it personal—I don't want to make it personal; I am talking about your general information.

A. My general impression is that there has been some advance in the cost of living since 1896. I don't think there has been much advance since 1900. I don't think there has been much advance in materials.

779 Q. But you haven't got information on the subject?

A. That is merely an impression.

Q. No information about it?

A. No, I haven't exact information.

Q. I don't inquire whether it is exact, or general, or specific, or what it is; you confine your statement to an impression.

A. Well, since 1900 the materials in our business have not, as a rule, increased.

Q. I don't care anything about your business. I am asking you generally whether there has or has not been an advance in the cost of living, generally, and I want to know whether on that subject you say you have or have not information. Either answer will suit me.

A. I have nothing except just a general impression, that I suppose is current everywhere, that it has advanced.

Q. Based on nothing.

A. Since——

Q. It is an impression based on nothing?

A. It is based on what I think is general opinion, general experience.

Q. Oh, general experience. Now, do you say that there has not been a general advance in the cost of living since 1899 and 1900?

A. When you get on the subject of living, Judge, I can't testify; I don't know.

Q. You haven't any information on that subject?

A. No, I have no direct information.

Q. Well, direct or indirect, general or specific, any kind of information: have you or have you not?

A. No, I have not.

WITNESS: When you asked me if I had been particularly active in this matter, I finally said yes. I desire to change that to the statement that I have been no more active than any other newspaper man subsequently to introducing the resolution in New York.

780 By Mr. KELLOGG:

Q. State whether you have done anything more than to furnish information when it has been asked you.

Objected to by defendants.

A. That is all.

(S'g'd)

CONDE HAMLIN.

Subscribed and sworn to before me this 23 day of August, 1905.

ROB'T S. TAYLOR,
Special Examiner.

781 MILIE BUNNELL, being duly sworn as a witness on behalf of the petitioner, testified as follows:

Direct examination.

By Mr. OLDS:

Q. Mr. Bunnell, where do you live?

A. Duluth.

Q. What is your business?

A. Publisher of the News Tribune.

Q. How long have you been publisher of the Duluth News?

A. It will be six years next November.

Q. That would make you starting in some time in the year 1899?

A. In 1899, yes sir.

Q. What time in 1899?

A. November.

Q. How far is Duluth situated from the mill known as the Northwest Paper Company?

Objected to by defendants as irrelevant, immaterial and incompetent.

A. I think it is 25 miles.

Q. And do you know what the freight rate is from that mill?

Same objection by defendants.

A. Five cents per one hundred pounds.

Q. Is that what it has been during the past 4 or 5 years?

A. Ever since I have been publishing the News-Tribune.

Q. And is that the nearest mill to you?

A. Yes sir.

Q. Now, since the Northwest Paper Company went into the General Paper Company, in April, 1902, has there been any competition that you could find in your territory among manufacturers of news print paper?

Same objection by defendants, and as leading and calling for the opinion of the witness.

782 A. None that I have been able to discover.

Q. Just prior to the time when the Northwest Paper Company went into the General Paper Company, were you buying paper from that company?

A. Yes sir.

Q. Have you that contract here?

A. Contract that I had with the Northwest Paper Company?

Q. Yes.

A. I never had a written contract with them, I think, Mr. Olds.

Q. You never had a written contract with them?

A. No sir, I don't think so.

Q. What was the price you were paying them that year?

A. \$1.87½, I think. I took the data down from my vouchers at the time I came away. \$1.87½, with a discount of 3 per cent.

Q. How about the returning of waste?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. We had no return of waste. We were allowed a tare on wrappers.

Q. Were you allowed to return your waste paper at all?

Same objection by defendants.

A. No sir.

Q. Now, did you make a contract in the spring of the year 1902 for your regular supply of paper?

A. Yes sir.

Q. With whom did you make it?

A. With Mr. Mendsen of the General Paper Company.

Q. You made it with the General Paper Company, did you?

A. Yes sir.

Q. I show you Petitioner's Exhibit 104. Is that the contract?

A. 1902, yes sir.

Q. Where was that contract made?

A. At Duluth, in my office.

783 Q. Was it signed by Mr. Mendsen then, at that time?

A. I think it was.

Q. Delivered to you at that time?

A. It was delivered to me at that time, yes sir.

Q. Anybody else there at the time?

A. I am not certain whether Mr. McNair was present that day or not; I think he was.

Q. Anything said about the approval of any mill for this contract?

Objected to by defendants for the reasons stated and as leading.

A. No sir, the contract was all made out and ready for me to sign when he came to the office.

Q. Speaking with regard to any contracts, all the contracts which you have made, this one and the subsequent one included, with the General Paper Company, has anything ever been said about the approval of any mill for those contracts?

Same objection by defendants.

A. Nothing whatever.

Q. Have they all been signed and delivered in your presence by the representative of the General Paper Company who made the contract?

Same objection and as leading.

A. Yes sir.

Q. Now, when this contract which you made in the spring of 1902 was made, did the Northwest Paper Company bid on that contract?

Same objection.

784 A. No sir.

Q. Did you have any talk with Mr. McNair at or about that time on the subject?

Same objection?

A. Yes sir.

Q. When? Before or after the making of the contract?

A. I met Mr. McNair before making the contract.

Q. How long before?

A. Just a short time.

Q. And did you talk with him about the subject of making a contract?

A. Yes sir.

Q. State what the conversation was.

Mr. FLANDERS: Same objection, and for the further reason that no proper foundation has been laid to make any statement by Mr. McNair binding on any one of these defendants.

A. He said that the Northwest Paper Company had gone into the General Paper Company and that in the future we would have to make our contract for paper with the General Paper Company. He stated further that he intended to see that his old customers were protected from any unusual increase in price—any great increase in price.

Q. This conversation was how long before the making of the contract?

Same objection by defendants.

Q. Your contract was dated the 7th of May?

A. Yes. It was just a short time before that, I couldn't say how long, within a few weeks. He advised me at that time when he had that conversation that a representative of the General Paper Company would be in to see me soon.

785 Q. Did you make any effort to get any other company besides the General Paper Company to bid on your contract that year?

Same objection.

A. I made inquiry as to whether there was any other mill that was in the market with paper and was unable to find anybody.

Mr. FLANDERS: I move to strike that out for all the reasons stated and as not responsive to the question.

Q. Do you remember whom you inquired of?

Same objection by defendants.

A. I inquired of different publishers.

Q. Any newspaper dealers or mill men?

Same objection.

A. I think I made inquiry of Mr. Nelson of the Hennepin Paper Company.

Q. When did you see Mr. Nelson?

A. Well, I can't recall the time now, but it was before I made this contract.

Q. And what did Nelson say?

Mr. FLANDERS: That is objected to for all the reasons hereinbefore stated and on the further ground that no proper foundation has been laid to make any statement by Mr. Nelson binding on any of these defendants.

A. He simply said that he hadn't any paper to offer me, that is all. He didn't make me any price on any paper.

Q. Did McNair at any time about the time of the making of this contract ever make any explanation about his going into the General Paper Company or tell you why he went in?

Mr. FLANDERS: Objected to for all the reasons stated, and especially on the ground that no foundation has been laid.

A. Mr. McNair had told me frequently prior to that time that they had been urged to go into the General Paper Company and
786 that they didn't wish to do so; and I think after he had joined the General Paper Company he said the reason for it was that he was compelled to do so because of the action of the publishers in not supporting the Cloquet mill.

Mr. FLANDERS: I move to strike that out for all the reasons hereinbefore stated.

Q. Was the five cents a hundred in 1902, do you know?

A. Yes sir.

Q. At the expiration of this contract which you made in 1902 what did you do about making another contract?

Same objection by defendants.

A. I made another contract with the General Paper Company in 1903.

Q. Were you any better off at that time with regard to the existence of competitive bids than you were before?

Same objection, as leading, and calling for the opinion of the witness.

A. No sir.

Q. Did any manufacturer, or anybody controlling any source of

supply other than the General Paper Company, submit any bids to you at this time in 1903?

Mr. FLANDERS: All previous objections repeated.

A. No sir.

Q. This Petitioner's Exhibit 105 is the contract you made at that time?

A. Yes sir.

Q. And that was made by Mr. Mendsen for the General Paper Company, was it?

A. Yes sir.

Q. Where was it made?

A. At Duluth. What is that, 1905?

Q. No, 1903.

A. Yes sir, at Duluth.

787 Q. Delivered at that time, was it?

A. Yes sir, delivered to me right there.

Q. Did you have any talk with Mr. Mendsen at that time about prices or terms?

Same objection.

A. No sir, I had no conversation with him about prices; I simply told him that I was ready to sign any contract that he had, and he had the contract all written out and I signed the contract just as he had it written. I told him that I had no alternative.

Mr. FLANDERS: I move to strike that out as not responsive to the question, incompetent, irrelevant and immaterial.

Q. What did Mr. Mendsen say to that?

Mr. FLANDERS: Objected to as irrelevant, incompetent and immaterial, and for the further reason that there is no foundation laid to show that Mendsen was authorized to bind any defendant herein by any statement.

A. Mendsen was a little put out at the remark and said that if I didn't want to sign the contract I could buy my paper somewhere else.

Q. What did you say to that?

Same objection.

A. I told him that I would be very glad to buy it anywhere else if he would give me a little information which would assist me in finding some mill that could supply me.

Q. Did he point out any place?

Same objection and as leading.

A. He stated his inability to give me any information along those lines that would be of use to me.

Q. Is that what he said?

A. Yes sir.

788 Mr. FLANDERS: I move to strike that conversation all out for the reasons hereinbefore stated.

Q. At the expiration of your 1903 contract did you make another contract with the General Paper Company?

A. Yes sir.

Q. Is Petitioner's Exhibit 106 the contract?

A. Yes sir.

Q. Was that made in Duluth?

A. Yes sir.

Q. Signed by Mr. Mendsen and delivered then?

A. Yes sir.

Q. Did you have any talk with Mr. Mendsen on the subject of prices at that time, or terms?

Objected to by defendants as irrelevant, incompetent, immaterial, and on the ground that there is no evidence in the case from which any authority on the part of Mendsen to bind any defendant herein can be inferred.

A. It was practically a renewal of the 1903 contract. I had more or less conversation with Mr. Mendsen at that time, and he informed me that the officers of the General Paper Company in Chicago wanted to advance our price over what it was the preceding year, and that he had intervened and had succeeded in preventing an increase.

Mr. FLANDERS: I move to strike that out for all the reasons hereinbefore stated.

Q. Did you have any talk with Mr. McNair on the subject of prices after he went into the General Paper Company?

A. After McNair went into the General Paper Company?

Q. Yes.

A. Yes, I talked with McNair a number of times on that subject.

Q. When?

A. Oh, I can't say when. He frequently drops into Duluth and pays me a friendly visit. Talk those things over among others.

789 Q. I show you Petitioner's Exhibit 108. What is that?

A. This is a contract, 1904.

Q. The other one is a 1904 contract also. One of them was canceled?

A. I think one of them gave us an increase in the amount, if I remember correctly.

Q. A different number of tons, or something of that sort?

A. Yes.

Q. They are both 500 tons? I didn't know but the cancellation had something to do with your terms.

A. No, there was some little change that was trivial.

Q. Then, this Petitioner's Exhibit 108 is a contract that was made and canceled for some reason or other?

A. Yes.

Q. Did any other party besides the General Paper Company appear to bid on your contract in 1904?

A. No sir.

Q. Did you try to get bids?

A. Oh, I made no special effort in 1904 to get any additional bids.

Q. I show you Petitioner's Exhibit 109. Is that the contract you made this year?

A. Yes sir.

Q. And where was that made?

A. At Duluth.

Q. Mr. Allen represented the General Paper Company, did he?

A. Yes sir.

Q. The contract signed and delivered there?

A. Yes sir.

Q. At the time it was made?

A. Yes sir.

Q. Did you have any negotiations prior to the signing of the contract?

A. Yes.

Q. Did you talk with Mr. Allen about it?

A. Yes. I had several conversations with Mr. Allen about that contract.

Q. Now, just state, Mr. Bunnell, what all the circumstances
790 surrounding the making of this contract were. What was said?

Objected to by defendants as incompetent, irrelevant, immaterial and for the reason that there is no evidence tending to show that Mr. Allen was authorized to bind in any such conversation any of the defendants.

A. I met Mr. Allen first at the office of the General Paper Company in Chicago, on the 21st day of March last, in company with Mr. Davis, the general sales agent. He asked me at that time if I would be willing to renew my contract of 1904, and I told him that I would not; I expected a decrease in the price, and he asked me if I would be satisfied with a reduction of five cents per hundred, and I told him I didn't think that was enough. I had quite a long talk with him at that time over general conditions, and met him again in St. Paul about a week later, at which time he offered me a still further reduction, and agreed at that time that he would take care of me (those were his words) and that he would see that I got my paper as cheap as anybody in this territory. Later he sent me a contract at a price of \$2.12 or \$2.12½, I don't recall which, and I signed it, writing him a letter at that time stating that I had signed it on the understanding that this price was as low as he was giving any other publishers in this territory. He returned the contract to me and declined to file it because of this letter I had written. He

came to Duluth and made a still lower price, with the assurance that it was as low as that of any of the others in this field, and I signed that contract on this assurance.

Mr. FLANDERS: I move to strike that testimony out as to the conversations for all the reasons hereinbefore stated.

791 Q. Did any other parties appear to bid on your contract in 1905 outside of the General Paper Company?

A. No sir.

Cross-examination.

By Mr. FLANDERS:

Q. Mr. Bunnell, you spoke of one contract which Mr. Mendsen had prepared for you when you came to the office; you found him there, did you?

A. He came to my office with the contract.

Q. Had you seen him before that contract was brought to your office?

A. No sir, I did not know until he came to my office what price I would be required to pay for my paper.

Q. I didn't ask you that Mr. Bunnell. I simply asked you if you had seen him before.

A. No, I had not.

Mr. FLANDERS: I move to strike his answer out as not responsive to the question.

Subscribed and sworn to be before me this — day of August, 1905.

_____,
Special Examiner.

(The hearing was adjourned until the morning of July 25, 1905, at which time the hearing of Mr. Hamlin, which had been interrupted, was resumed.)

792 A. C. WEISS, being duly sworn as a witness on behalf of the petitioner, testified as follows:

Direct examination.

By Mr. OLDS:

Q. Mr. Weiss, where do you live?

A. Duluth, Minnesota.

Q. What is your business?

A. I am general manager of the Evening Herald Company.

Q. And how long have you been connected with that company?

A. About fifteen years.

Q. And during that time have you had charge of the purchase of news print paper used by the company?

A. I have.

Q. State the conditions which you met in the purchase of news print paper prior to 1900 with respect to the existence of non-existence of competitive bids for your contract.

Objected to by defendants as irrelevant, incompetent and immaterial.

A. Why, I found considerable competition all the time from different mills.

Q. Well now, just state what form the competition took and how the business was done.

Same objection.

A. Why, I had bids on paper from different mills, bought of different mills at different times.

Q. Did the agents of the different mills come to see you?

A. Yes sir, the agents came around to see me.

Q. Now, when you speak of mills, what mills do you mean, where located?

A. I mean Eau Claire and Little Falls.

Q. The Hennepin Paper Company?

793 A. Yes sir, the Hennepin Paper Company.

Q. And by Eau Claire you mean the Dells Pulp & Paper Company?

A. Yes sir; and I mean the Flambeau Paper Company at Park Falls, Wisconsin; also from mills down in Maine—correspondence, and I also had men call on me from those mills in those days, prior to 1900.

Q. Any other mills in the Northwest other than those you have mentioned that you think of?

A. No, I think not. Of course the matter of freight rates was quite an item.

Q. I mean in Minnesota and the Northwest, in Michigan; any bids other than those you mentioned?

A. There was only one mill in those days in Minnesota; that was the Hennepin mill.

Q. That is before 1900 you are speaking of?

A. Yes, before 1900.

Q. What were you paying for news print paper in 1899?

Objected to as irrelevant, incompetent and immaterial.

A. In 1899 I think \$1.75.

Q. Where were you buying it?

Same objection.

A. From the Hennepin Paper Company.

Q. In 1899?

A. Oh no. In 1899 I was buying from the Northwest Paper Company. In fact, I am said to have had the first carload of paper they ever turned out of that mill.

Q. Did you have a formal contract with the Northwest Paper Company?

A. In 1899?

Q. Yes.

A. Yes sir. Well, I had a letter, that is all.

Letter marked Petitioner's Exhibit 159 for identification, and shown to Mr. Flanders.

794 Q. I show you Petitioner's Exhibit 159. Is that the letter you speak of?

A. Yes sir.

Q. That is the form the contract took with the Northwest Paper Company?

A. Yes sir.

MR. OLDS: I offer in evidence Petitioner's Exhibit 159.

Objected to by defendants as incompetent, irrelevant and immaterial.

Q. Now, after 1900 and the organization of the General Paper Company (which I will state for your information took place on May 26th, 1900) what was the situation, generally, with respect to the existence or non-existence of competition or competitive bids in your territory?

A. That is, after 1900?

Q. After 1900.

MR. FLANDERS: Same objection, and on the ground further that it calls for the opinion of witness.

A. Well, there was very little competition; in fact, there was not any.

Q. Whom did you make your contract with in 1901?

Same objection by defendants.

A. I made my contract in 1901 with Mr. McNair.

Q. Of the Northwest Paper Company?

A. Yes sir.

Q. Was that evidenced by a letter in the same way as the previous one?

A. I think so, yes sir.

Paper marked Petitioner's Exhibit 160 for identification and shown to Mr. Flanders.

Q. This paper marked Petitioner's Exhibit 160 is the contract for 1901?

A. Yes sir.

Q. Did you have any other bidder for your contract in 1901 than the Northwest Paper Company?

Same objection by defendants.

A. No sir.

795 Q. Did you try to get any bids?

A. Why, I think I looked around some, but I think that was the——

Q. Did you discuss the situation in that respect with Mr. McNair?

Mr. FLANDERS: Same objection, and also as hearsay.

A. Yes.

Q. When with reference to the time of making the contract?

Same objection.

A. Let me see the date of that contract. (Referring to Exhibit 160.) Why, I talked it over with him quite a good many times.

Q. Before or after the making of the contract?

A. Before and afterwards also. Of course he informed me——

Q. Now, state what he said on the subject of competition or the lack of competition.

Same objection.

A. He told me that the Northwest Paper Company had been importuned to join the General Paper Company, but that he was opposed to it, and also that Mr. Weyerhaeuser believed in running his own business; that if the newspapers stood by him, they wouldn't go into the General Paper Company.

Mr. FLANDERS: I move to strike that out for the reasons stated.

Q. Did the General Paper Company bid on your contract for that year?

A. No sir.

Q. Did you try to get them to bid or approach any of their members or officers on the subject?

Same objection.

796 A. Well, I won't say absolutely that Mr. McNair told me this, but I rather think he did; that while they were not a member of the General Paper Company, at the same time they had an understanding, and I think they were to have the Duluth papers.

Mr. FLANDERS: I move to strike that out for all the reasons stated and also on the ground that there is nothing in the record to show that Mr. McNair was authorized to speak for any of the defendants.

Q. Is that what Mr. McNair told you?

A. Yes sir.

Q. Now, in 1902, what was the situation at the expiration of this contract you made with McNair? What did you do about making the contract?

A. Mr. McNair—he comes to Duluth very frequently—came into my office one day——

Mr. FLANDERS: I object to any statement by Mr. McNair, or conversation with him, for all the reasons stated.

WITNESS: —and said that he thought the Northwest Paper Company was going to go into the General Paper Company. I was very much surprised, from what he had told me previously, and wanted to make a contract with him right there. Well, he didn't want to do that, but he said that he would let me know in ample time, if they did go into the General Paper Company, so that if there was anything I could do to protect myself that I could do so, and he also mentioned, in connection that he had practically told the same thing, I think, to Mr. Swift.

Mr. FLANDERS: I move to strike that all out for the reasons stated.

Q. Is that all of the conversation, or the substance of it?

A. Well, that is about the substance of it, yes sir. Then Mr. McNair appeared again on the scene——

797 Mr. FLANDERS: Same objection as to any statement by Mr. McNair or any conversation with him.

WITNESS: —and said they had joined the General Paper Company.

Q. What was the rest of the talk, if there was any?

Same objection by defendants.

A. And said that a representative would be here and make a contract with me—a representative of the General Paper Company.

Q. Did he say anything about making a contract himself?

A. No, he didn't; no sir. He was there I think in the morning, and at noon I got onto the train and came down to Minneapolis.

Q. What did you do that for?

Same objection by defendants.

A. I came down to see Mr. Nelson.

Q. That is, Mr. Nelson of the Hennepin Paper Company?

A. Mr. Nelson of the Hennepin Paper Company.

Q. A friend of yours, was he?

A. I might add that Mr. Nelson and myself were members of the prison board for Minnesota and were thrown together very frequently for three or four years, and of course I knew him very intimately, and I came down to——

Mr. FLANDERS: Now wait a minute, Mr. Weiss. I object to the witness testifying as to any conversation between him and Mr. Nel-

son, or any statements made by Mr. Nelson, as irrelevant, incompetent and immaterial, and for the reason that there is no evidence to show that Mr. Nelson was authorized to or did bind any of the defendants to this action.

Q. Did you see Mr. Nelson?

A. I got down at 7 o'clock or about half past 7, and telephoned over to his house, and they said he was very sick. Mrs. Nelson came to the 'phone. I said to Mrs. Nelson, "Well, won't it
798 be possible for me to see him for just a few minutes?" She said if I would make it just a few minutes I might possibly see him.

Q. Well, never mind your conversation with her, but did you see Mr. Nelson?

A. Yes sir.

Q. And did you have a talk with him on this subject?

A. Yes sir.

Same objection by defendants.

Q. State what took place.

Same objection.

A. I stated to Mr. Nelson what had taken place about the Northwest Paper Company (which I didn't think was any news to him), and I said, "What can I do?" He said he didn't know what I could do, but he said what price he thought they ought to make me. He said he thought they ought to do that, but he didn't know whether they would or not.

Q. Did he name any price he thought they ought to make you?

A. Yes.

Q. What was it?

A. He said that they ought to give me paper for two cents.

Q. That is two cents a pound?

A. Yes, but they would probably make me a price of \$2.05.

Q. Is that the substance of your conversation with Mr. Nelson at that time?

A. Yes. I didn't stay very long. He wasn't very well.

Mr. FLANDERS: I move to strike that all out for the reasons heretofore given.

Q. Did you afterwards make a contract with the General Paper Company?

A. Yes sir.

Q. With whom did you make it?

A. Mr. Mendsen.

Q. How long afterwards if you remember?

799 A. Well, the contract, I think took effect June first.

Mr. FLANDERS: Which year?

WITNESS: 1902.

Q. I was just trying to locate it with reference to the time you had the conversation with Mr. Nelson. About how long afterwards was it?

A. Well, I should say (I may be mistaken) probably a week or ten days.

Q. It was made in Duluth?

A. Yes sir.

Q. And Nelson came to see you, did he?

A. Yes sir.

Q. Did you have any talk with him at the time of the making of the contract?

A. Yes sir, a very long talk.

Q. About this subject of prices and competition?

A. Yes sir, I kept him there for a day and a half.

Q. What was the substance of the talk?

Mr. FLANDERS: All the objections repeated to this conversation and statements of Mendsen.

A. The price I deemed outrageous.

Mr. KELLOGG: Did you say so?

WITNESS: Yes sir. Well, in fact, he did reduce his price some from what he originally asked. I would say that Mr. McNair and Mr. Taylor were there with him.

Q. Who is Mr. Taylor?

A. Mr. Taylor is secretary, I think, of the Northwest Paper Company.

Q. Did McNair have anything to do with making the contract or making the price?

A. No sir, except that Mr. McNair told me—told me repeatedly afterwards and before—

Mr. FLANDERS: Same objection.

WITNESS: —that he was using his influence to have them give me as good a price (his old customers) as they possibly would.

Q. Have you stated all your conversation with Mendsen at that time that bore on this subject?

A. Of course I maintained that I was running the paper up there near the mill; my freight rate was considerably less than the papers down here, and that I should be on the same basis under those circumstances, allowing them the difference in freight over what the papers were paying down here. Of course I couldn't get him to consent to that, or anything of that kind. We took up a great deal of time upon that subject, and of course he was telling me how other papers that were likely situated (like the Herald) were even paying more than we were, and all this.

Q. You finally closed a contract with him, did you?

A. Yes sir.

Q. Is this paper marked Petitioner's Exhibit 110 the contract you made with him?

A. Yes sir.

Q. Was that signed and delivered at your office?

A. Yes sir.

Q. Was anything said about getting the approval of any mill for that contract or for any other contract that you ever made with the General Paper Company?

A. I might add: of course I was a little sore at McNair——

Q. Well, just answer that question.

Mr. FLANDERS: Same objection.

A. No sir, there was not.

Q. Now, what was said about it, at this time?

A. The first year that the Northwest Paper Company turned out paper they did turn out poor paper. Much improved now, very good. I finally said "Well, if I have got to sign that kind
801 of a contract, then I want my paper to come from the Itasca paper mill"—which were making a much better quality of paper. Mr. Mendsen said to me, "You can't have it from the Itasca paper mill; that paper brings a higher price and goes to other publishers." At the same time I think they were furnishing it to one paper in Minneapolis.

Mr. FLANDERS: I move to strike out the latter portion of the answer as not responsive to the question and hearsay.

Q. Did Mr. McNair at this time say anything further to you about the reason why his mill went into the General Paper Company?

Objected to by defendants as irrelevant, incompetent and immaterial, and for the reason that there is nothing to show that McNair was authorized to speak for any of the defendants in this action.

Q. At or about this time?

A. Well, he did before; he talked on the subject, elaborated on it considerably.

Q. What reason did he give for going in?

Mr. FLANDERS: All objections repeated.

A. He gave the reason that they were driven to do it, that they were forced to come into the General Paper Company.

Q. Now, in 1903, what bids did you have on your contract, at the expiration of this 1902 contract?

Same objection by defendants.

A. Didn't have any bids.

Q. The General Paper Company had——

A. Yes, the General Paper Company raised the price.

Q. What effort, if any, did you make to get other bids?

Same objection by defendants.

802 A. After Mr. Mendsen came there, stayed there, I think, a day or possibly a day and a half, I declined to sign the contract on the pretext that some of our directors were out of the city and I didn't propose to sign that contract.

Q. Was the contract drawn up?

A. Yes sir, drawn up by Mr. Mendsen.

Q. Signed by him?

A. Yes sir.

Q. Did he leave it with you?

A. Yes sir. And the next day after Mr. Mendsen left I made up my mind I was going to see what I could do, if I couldn't better myself, and I put on a fishing suit and took my rod and was going down through the Wisconsin valley and see if I couldn't find an independent mill. I thought I knew one. I went to a hotel in a little town, Park Falls, and registered under an assumed name.

Mr. FLANDERS: This is all taken subject to our objection. Did you catch any fish?

Mr. KELLOGG: No, he got caught.

WITNESS: I got caught. I walked up to the mill and talked with the foreman, who was pretty well posted, and found that this mill was a member of the General Paper Company and all the other mills down in there were members of the General Paper Company. So I stayed there that day, took the evening train back home, and signed the contract and sent it in to the General Paper Company.

Mr. FLANDERS: You haven't told us whether you caught any fish and how long they were.

WITNESS: I forgot to take my bait.

803 Q. And in 1904 what took place in regard to the making of your contract? Did you have any bids outside of the General Paper Company?

A. No sir. In 1904 I came to the conclusion that there was no place else to turn to but the General Paper Company. Mr. McNair had very frequently——

Mr. FLANDERS: I move to strike that out as not responsive to the question, irrelevant and immaterial.

WITNESS: Mr. McNair had very frequently asked me when in Chicago——

Mr. FLANDERS: I object to the statements of Mr. McNair for the reasons heretofore stated.

WITNESS: To drop in and see the General Paper Company people, get acquainted with them. So it was getting along towards the time to make a contract, and I went down to Chicago, on some other mission, and dropped in to see the General Paper Company people; met Mr. Davis; was introduced I think to Mr. Stuart, and I don't know——

Q. That is, Mr. John A. Davis you are speaking of now?

A. Yes, Mr. John A. Davis, the general manager, and I met Mr. Mendsen there. Talked quite a time with Mr. Mendsen. Mr. Mendsen went out and left me with Mr. John A. Davis, and I had a rather animated discussion with him the greater part of the afternoon, until about seven o'clock or half past seven in the evening, and finally signed the contract with him.

Q. Did you and Davis have any talk about prices?

A. Yes sir, a great deal about prices, and everything of that kind.

Mr. FLANDERS: All the objections heretofore entered are renewed.

804 Q. Anything said about the control of the General Paper Company over prices?

Mr. FLANDERS: All the objections heretofore entered.

A. Yes sir. Mr. Davis went on to expatiate on how magnanimous they were, and everything of that kind; said they could charge us \$2.50 just as well as \$2.20.

Q. That is what he said, is it?

A. Yes sir. And I made the remark to him, "Yes sir, I suppose I ought to be thankful that I am allowed to live." Made the remark that "when I came down there I came down to put my head in the noose," in a joking way, of course.

Q. Now, in any of these years you have been making contracts with the General Paper Company, that is from 1900 on, have you received any visits from representatives of manufacturers and separate mills?

Objected to by defendants as irrelevant, incompetent and immaterial.

Q. I mean as compared with the way they used to come to you before 1900?

Also objected to as calling for the opinion of the witness.

A. No sir.

Q. Nothing of that kind?

A. No sir.

Q. Now, this last talk you had with Davis was in 19—

A. That was in 1904, yes.

Q. Now, in 1905 did you have any bids outside of the General Paper Company for your contracts?

Same objection by defendants.

A. No sir.

Q. Where was that contract made?

A. That was in Duluth, with Mr. Allen, I think.

805 Q. Mr. Allen represented the General Paper Company?

A. Yes sir.

Q. Was it signed and delivered there at that time?

A. Yes sir.

Q. Did you have any talk with Mr. Allen about the subject of prices, terms, etc.?

Objected to by defendants as irrelevant, incompetent and immaterial for the reason that there is nothing in the record to show that Mr. Allen was authorized to speak for either of the defendants.

A. Yes sir, I had some talk with Mr. Allen. Of course the price was being reduced some. That pleased me. I told him of course we were publishing a paper up where it was a little more expensive than it was further south, down in the Twin Cities, in a great many things, and I thought he ought to give us the same price that he was charging papers down here, and he told me upon his word of honor that that was what he was doing—giving us exactly the same price; and I said, "Of course, under the circumstances, I can't ask for anything else." It was not a very long or animated discussion.

Q. You signed the contract?

A. I signed the contract.

Q. And that was the end of it?

A. Yes sir.

Q. Under this contract made in 1899 with the Cloquet mill, did you have any allowance for waste returned?

A. No, not a regular allowance, but when there was any bad paper, anything that we threw out—

Mr. FLANDERS: Just a minute. That is objected to as irrelevant, incompetent and immaterial.

806 WITNESS: —it was taken back without any question. We always had more or less waste and it was allowed. Of course I understood that that was in vogue at St. Paul here, and while they had a much better proposition on that than we did, at the same time they allowed us some waste right along.

Mr. FLANDERS: I move to strike that out as not responsive to the question, irrelevant and immaterial.

Q. What price were you allowed?

Same objection by defendants.

A. The same price we paid for it.

Q. How about the weight of your paper prior to 1900 and prior to the time the General Paper Company was organized?

A. After we were buying our paper from the General Paper Company, we found—

Q. I mean before that, how did the weight run?

A. The weight ran, I should say, about 30 or 31 pounds, possibly at times 32.

Q. Did you have anything to say about the weight?

A. Well, yes, if the paper was too heavy of course we objected.

Q. Did the objections cut any figure at all?

A. Before that?

Same objection by defendants.

Q. Yes.

A. Yes, indeed.

Q. Now, since the General Paper Company has been making your paper what is your experience with this subject on the question of weight?

Same objection by defendants.

807 A. Well, we haven't what you call paper scales ourselves, but I have a man in the office who is quite conversant with matters of that kind, and we weighed the different pieces of paper on a jeweler's scale, and then figured it out. Our pressman said "That paper is running very heavy," and we figured it, and it was running over 35 pounds, and we protested.

Q. To whom did you protest?

A. We protested to the Northwest Paper Company. I told Mr. Davis about it when I was making the contract and he said "You didn't protest to the right place, you ought to protest to me;" and he sat right down then and there and dictated a letter. The mill is a short distance from the office. I called them up by telephone, thought I would simply speak to them, and he dictated a letter to the mill right then and there. He wanted to know about these things when they were going on, and everything,—protesting on this making paper too heavy.

Q. Has your weight been satisfactory since the organization of the General Paper Company?

A. Yes, I think they come right up to the limit. Their contract is 32 pounds with a leeway of two pounds, that is on a basis of 24 by 36.

Q. Have you ever requested a lower weight?

A. Very frequently.

Q. Ever got it?

A. Never got a weight below 32 pounds. Oh, there possibly might be a roll that would run a little less than that, although we haven't discovered it.

808 Cross-examination.

By Mr. FLANDERS:

Q. Mr. Weiss, won't you be good enough to look at these Exhibits 110, 111, 112 and 113, which are contracts made by you with the General Paper Company in May, 1902, April, 1903, April, 1904, and May, 1905, and find, if you will, any clause in there which says that the weight shall be from 30 to 32 pounds?

A. It doesn't say from 30 to 32 pounds. I said it should be 32 pounds with a leeway of two pounds. It is in here somewhere, or was; they showed it to me. "Paper shall be run on the following basis of weight, 32 pounds to 500 sheets, and as near the ordered weight as practicable, but with a leeway to the manufacturer of two pounds under or over said basis."

Q. Mr. Weiss, have you had any dealings with any other company than the General Paper Company or the Northwest Paper Company since 1899, as you say?

A. No sir.

Q. Do you know whether or not the weight, generally, by manufacturers, outside of mills that are clients of the General Paper Company, has been 32 pounds, similar to what there is in this contract?

A. I know there are papers running less than 32 pounds now.

Q. I am not talking about papers; I am talking about manufacturers; whether you do know or not that that is the rule with paper manufacturers throughout the country and has been for several years?

A. That is, 32 pounds.

Q. Yes. That is the fact, isn't it?

A. Well, I don't know about that. I know that is the rule of the General Paper Company.

809 Q. Do you know anything about the other manufacturers?

A. No, I don't know anything about them.

Q. When was it that you went fishing down by Park Falls?

A. It must have been 1903.

Q. And when you got down as far as Park Falls and spoke with the foreman and didn't catch any fish, that discouraged you and you didn't try to do any more about it?

A. No sir.

Q. It never occurred to you to write to any of these mills—

A. Yes, it did.

Q. —and get information?

A. Yes sir, it did occur to me.

Q. Well, did you get any of these mills that I now call your attention to: the Outagamie Paper Company of Kaukauna, Wisconsin?

A. No sir.

Q. Did you write to Kimberly & Clark of Neenah, Wisconsin?

A. No sir.

Q. Or George A. Whiting of Menasha, Wisconsin?

A. No sir.

Q. Or the Patton Paper Company of Appleton, Wisconsin?

A. No sir.

Q. Or W. D. Boyce of Marseilles, Illinois?

A. I talked with Mr. Boyce very frequently in Duluth.

Q. In 1903. Did you try to get a bid from Mr. Boyce?

A. Well, I was satisfied that he could not supply us with paper.

Q. Mr. Weiss, I didn't ask you that. Did you try to get a bid from him?

A. Well, I gave him an opportunity, if he wanted to, but he was having trouble with his mill, more or less, and I don't remember just exactly; I know his mill wasn't working very satisfactorily.

Q. Well, that didn't extend all over these five or six years, 810 did it, that he had trouble with his mill?

A. I don't know, I am sure.

Q. You knew he was a competitor in producing news print paper, didn't you?

A. No, I didn't.

Q. How long have you known him?

A. Mr. Boyce?

Q. Yes.

A. About 15 or 20 years.

Q. You have known he has been in the news print business for 6 or 8 or 10 years back, haven't you?

A. Why, in a fashion, yes.

Q. And did you know also of the Outagamie Paper Company?

A. No sir.

Q. Or the Kimberly & Clark Company?

A. No sir. I knew of them. I have heard of the Kimberly & Clark Company, but I didn't—

Q. The Patton Paper Company, did you know of them?

A. No sir, I did not.

Q. Or the Winnebago paper mills?

A. No sir.

Q. Or the Cheboygan (Michigan) mills?

A. Yes, I have heard of those.

Q. You didn't make any effort at all to get any bid from any of these?

A. No sir.

Q. Nor from anybody else, except the foreman down at Park Falls?

A. Well, I didn't make any effort to get any from him. I talked with him and found out the lay of the ground; that is all I wanted to know.

Q. So, as a matter of fact, you didn't make any effort to get any bids from anybody, is that right?

A. I did make an effort to get some previous to or about '92; I did write a letter to the Itasca Paper Company at Grand Rapids.

811 Q. Anybody else?

A. No; that was all.

Q. So that during all these years that is the only effort that you made—was to write a letter to the Itasca Paper Company?

A. Why, I talked with Mr. Nelson. He told me I had better buy my paper from—

Q. Well, aside from that did you make any effort at all?

A. No sir.

Q. Now, Mr. Weiss, isn't it the fact that there were substantially no travelers around soliciting bids during the Spanish-American war, from paper manufacturers?

A. During the Spanish-American war?

Q. Yes.

A. Well no; I think there were some around.

Q. But their visits were infrequent; is that what you mean?

A. Yes, I should say so. Of course you understand we are at one side there and we don't consume so much paper up at Duluth, and naturally they would give us the go-by. I depended on the situation for information down here in the Twin Cities.

Q. Now, what do you say, Mr. Weiss, as to whether or not since 1896, '7, '8 and '9, there has been a general advance in prices?

A. Since 1896, yes sir.

Q. Period of 1894, '5, '6 and '7—

A. Yes sir.

Q. And '8 and '9 were periods of depression, were they not?

A. Well, I don't think '8 and '9 were particularly; '96 and '7, and possibly the fore part of '98, say, were.

Q. Well, the grand era of prosperity, with its champion, appeared on the scene about 1900, didn't it?

A. Oh no, it began before that, before 1900. I have no doubt it was better some in 1900, possibly, than it was in 1898.

Q. Wasn't that the year prosperity came back?

812 A. It possibly reached its zenith about that time or reached a point where, if anything, it was better in 1900 than it was in 1899.

Q. You mean it began in 1899 and possibly 1898?

A. Yes, 1898, it began.

Q. But, as a matter of fact, the real start of prosperity was in 1900, wasn't it, Mr. Weiss? Don't you remember?

A. No, I should say the real start of prosperity was in 1898.

Q. In 1898?

A. Yes, sir.

Q. Well, you say there has been a decided advance since 1896 and '7?

A. Yes, sir.

Q. Now, how general has that been? I am not speaking of the printing business alone, but what is the fact as to whether there has been a general advance in cost and prices?

A. Oh, no doubt the cost of living has gone up some since 1896—considerably. Other things, in our business, for instance, printing-presses,—I don't think printing-presses, type-setting machines and ink cost us any more, or perhaps not so much.

Q. I am not confining it to your business. I am asking whether or no there has been a general advance in prices.

A. That is a matter that is easy to ascertain. Of course it is understood there has been an advance in prices generally, since 1896

I don't know what percentage. You are speaking of living expenses?

Q. Yes, and products generally, like lumber and steel and iron and other things.

A. I don't think there has been any special advance in steel, that is, since 1899 or 1900.

813 Q. You confine it to 1896 and '7.

A. Oh yes, there has been an advance in steel and everything since 1896 and '7, yes sir.

Q. There has been an advance in labor too, hasn't there?

A. Yes, sir.

Q. And in your labor how much has the advance been?

A. Oh, not so very much outside of the printers. Of course they have a union. We conform to their demands when we think they are reasonable.

Q. Well, how much has been the advance, about?

A. Oh, I would say 10 per cent. I think that would be all. I don't know as it would be that much.

Redirect examination.

By Mr. OLDS:

Q. You have been asked about W. D. Boyce. Do you know what Mr. Boyce's principal business is?

A. Yes, sir.

Q. What is it?

A. He is the publisher of half a dozen (or was) or three or four of these what you might term sensational weeklies.

Q. He uses a lot of paper?

A. Yes sir, a lot of it.

Q. Do you know when he built his mill down at Marseilles, Illinois?

A. I know about.

Q. When?

A. I think he started to build that mill along in '97.

Q. Do you know why he built it?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. I have heard, but I have forgotten.

814 Q. Do you know how he disposes of his output?

A. Why, he uses it himself, I think, largely.

Q. Do you know whether he has any substantial surplus to dispose of?

A. I don't think he has. In fact, I—

Q. Did he ever offer to sell you any?

A. No sir.

Q. Did he ever have any agent out selling paper, as far as you know?

A. I never heard of one.

Q. Now, the Outagamie Paper Company: did you ever see an agent of that company?

A. No sir.

Q. Any agent ever call on you from that company at all?

A. No sir.

Q. Or on anybody in this territory that you know of?

A. No.

Q. How about the Winnebago?

A. I don't know anything about them. I never saw one of their representatives.

Q. Has anybody that you know of in this locality bought paper from them?

A. No sir.

Q. The Cheboygan of Michigan: do you know anything about that company?

A. Yes sir, the representative of that company called on me once, about two years ago, and I told him that our contract——

Mr. FLANDERS: I object to the conversation.

Q. Never mind the conversation. Did he submit a bid to you?

A. He did not.

Q. Did you ever make a contract with him?

A. No sir. He said he would, but he never came back again.

Q. How about the Patton Paper Company?

A. I don't know anything about that.

815 Recross-examination.

By Mr. FLANDERS:

Q. As to Mr. Boyce, do you know what the product of his mill was or is?

A. Why, I have heard. The man that had charge of all that business for Mr. Boyce worked for me afterwards and I talked with him a great deal about it.

Q. Have you any knowledge about it at all except what you have heard?

A. No knowledge whatever.

Q. You don't know what the tonnage is or what he does with it?

A. Well, I know it is not a thousand ton a day mill; I know it is a small mill.

Q. You don't know whether he has surplus or hasn't a surplus over and above his business?

A. I don't know.

Subscribed and sworn to before me this — day of August, 1905.

Special Examiner.

816 W. J. MURPHY, being duly sworn on behalf of the petitioner,
testified as follows:

Direct examination.

By Mr. KELLOGG:

Q. Mr. Murphy, you are a newspaper publisher?

A. Yes sir.

Q. What paper do you publish?

A. The Minneapolis Tribune.

Q. Are you an officer of the company?

A. Yes sir.

Q. President?

A. Yes sir.

Q. And you have general charge of the management of the paper?

A. General manager.

Q. Prior to the organization of the General Paper Company, in 1900, what was the condition of the trade as to whether there was competition between the different mills manufacturing news print paper in the Northwest?

Objected to by defendants as irrelevant, incompetent, immaterial and calling for the opinion of the witness.

A. There was competition.

Q. Describe it. How was it sold, whether agents came around to you from different mills and offered paper, speaking generally?

Same objection by defendants, and also as leading.

A. Agents would come, I think.

Q. What is the price you were paying for paper in 1899, before the organization of the General Paper Company?

A. \$1.80, less three per cent.

Q. What were the conditions as to any deductions of any kind from that, which would in any way affect the price? State what they were, if any.

817 Objected to by defendants as before.

A. The brown wrapper was not charged for at all; the white waste was returned at full price; weights were guaranteed, and the weight of the paper made what the publisher wanted it.

Q. What was the weight of the paper?

A. The weight was 30 pounds, 24 by 36, 500 sheets.

Q. That was in 1899. Now, after the organization of the General Paper Company in 1900 and down to the present time, state what the condition of the trade was with reference to competition or competitive bids by manufacturers.

Mr. FLANDERS: All objections repeated, and also objected to as leading.

A. There was no competition for the Minneapolis Tribune.

Q. Any agents of mills call on you?

Same objection by defendants.

A. Yes sir.

Q. Since 1901.

A. Since the formation of the General Paper Company.

Q. I mean since the formation of the General Paper Company have any of the agents of the mills themselves called on you, other than the General Paper Company?

A. Oh, no.

Q. Submitted any bids to you?

Same objection.

A. No.

Q. What has been, then, your sole source of supply since the organization of the General Paper Company?

Same objection, and also as leading.

A. With one exception, the General Paper Company; no other.

818 Q. What is the first contract you made with the General Paper Company, what year?

A. 1901.

Q. Have you that contract?

Witness produces paper.

Q. Have you got the 1902, 1903, 1904 and 1905 contracts?

A. 1902, 1903—that was the Rhinelander. (Producing papers.)

Q. Well, I will explain that.

A. 1905. (Producing another paper.)

The papers were marked for identification Petitioner's Exhibits 161, 162, 163, 164 and 165.

Q. Referring to Exhibit 161, who made that contract on behalf of the General Paper Company?

A. W. Z. Stuart.

Q. Exhibit 163, who made that on behalf of the General Paper Company?

A. W. Z. Stuart.

Q. Exhibit 162, who made that contract on behalf of the General Paper Company?

A. W. Z. Stuart.

Q. Where were they signed and delivered?

A. I think in Minneapolis.

Q. Who delivered them to you?

A. The General Paper Company through some of its officers, either in person or by writing.

Q. Was anything said to you by any officer of the General Paper

Company about these contracts being approved by the mills furnishing the paper?

A. No sir.

Q. Who fixed the price in those contracts?

A. W. Z. Stuart.

Q. Absolutely?

A. Absolutely.

Q. Did you have anything to say about it?

A. Not a thing.

Mr. FLANDERS: That I move to strike out as giving the opinion of the witness, and the testimony of the witness should be confined to what was said and done.

819 Q. Did anybody else, as far as you know, have anything to do with fixing the price named in those contracts except officers of the General Paper Company?

Objected to by defendants as irrelevant, incompetent, immaterial and calling for the opinion of the witness.

A. No sir.

Petitioner offered in evidence Petitioner's Exhibits 161, 162 and 163.

Objected to as irrelevant, incompetent and immaterial.

Q. I show you Petitioner's Exhibit 165, contract for 1905. Who made that on behalf of the General Paper Company?

A. John A. Davis.

Q. Where was it delivered to you?

A. In Minneapolis.

Q. At the time that contract was made and delivered was anything said about it being approved by any mill furnishing the paper?

A. No sir.

Q. Who fixed the price?

Objected to by defendants for the reasons hereinbefore stated.

A. John A. Davis.

Q. State whether you had anything to do with fixing the price.

Same objection.

A. No sir.

Q. Or any one else except the officers of the General Paper Company, if you know.

Same objection.

A. Not as far as I know.

Petitioner offered in evidence Petitioner's Exhibit 165.

Same objection.

820 Q. I show you a letter dated December 30, 1903, Mr. Murphy, and I have forgotten which contract that was attached to.

A. It was an extension of the contract expiring January 29, 1904.

Mr. KELLOGG: Then, Mr. Flanders, shall I attach that to the contract?

Mr. FLANDERS: That is all right.

Q. Mr. Murphy, you stated that there was one exception in the furnishing of paper or making contract. Will you please state what that exception is.

A. The Rhinelander Paper Company.

Q. I show you Exhibit 164. Please state the circumstances under which that contract was made.

Mr. FLANDERS: What is the date of it, Mr. Murphy?

Mr. MURPHY: June, 1904.

Mr. FLANDERS: Objected to as irrelevant, incompetent and immaterial. Has that been offered?

Petitioner then offered in evidence Petitioner's Exhibit 164.

Objected to by defendants as irrelevant, incompetent and immaterial.

Mr. KELLOGG: You may answer the question.

A. The Rhinelander Paper Company had just constructed a new mill. It had been running a few months prior to this time, but had not as yet entered the General Paper Company. Finding there was an independent mill on the market to make a contract, I made my contract with it.

Mr. FLANDERS: I move to strike that out for the reasons stated.

Q. When that contract expired what did you do?

A. Made a contract with the General Paper Company.

821 Q. Did you try to renew this contract?

Same objection.

A. The Rhinelander Paper Company had become a member of the General Paper Company.

Q. Did they call on you to renew the contract?

A. No sir.

Q. What charges affecting the price of paper have been made by the General Paper Company under these contracts since 1900 which were not made in 1899?

Same objection.

A. I can only speak generally about our locality.

Q. Well, that is what I mean, as to your paper, say.

A. As to my paper, the 3 per cent. discount was withdrawn; the weight of paper was not guaranteed.

Q. What has been the difference in the weight of the paper?

A. Generally speaking, 7 per cent.

Q. How much difference does that make, in dollars, if you can tell substantially, to the Tribune Company per annum, that one item?

Same objection by defendants.

A. Including Government postage on the extra weight, approximately twenty odd thousand dollars.

Q. That one item, per annum?

A. Per annum, yes.

Q. Well, what other items?

A. White waste was taken back at something less than half price where it used to be taken back at full price; brown paper was charged for, which was not charged for prior to the formation of the General Paper Company in our case.

Q. What about drayage or anything of that kind?

822 A. That remains the same under my contracts.

Q. Do you know, Mr. Murphy, about how much difference all these items have made in the price of paper, since 1899, to the Tribune Company? I don't know whether you have made any calculation.

A. No, I don't think I could answer that without making a calculation.

Mr. KELLOGG: All right, then, I will withdraw the question. I didn't know whether you had or not.

Cross-examination.

By Mr. FLANDERS:

Q. Mr. Murphy, this difference of \$20,000 that you speak of is between the paper of what years?

A. The paper of 1900 and prior thereto.

Q. What?

A. Between the years 1900 and prior thereto.

Q. Well, what do you compare it with? Between what years do you make the comparison?

A. Any year after the General Paper Company got—I won't say positively that they generally charged it the first year or so.

Q. I think perhaps you misunderstood me, or I haven't made it plain to you, Mr. Murphy. You said there was a difference of \$20,000, counting the weight and Government postage, as I understood you, didn't you?

A. I intended to say that if our paper was based upon 32 pounds.

Q. Based, did you say?

A. Upon 32 pounds weight, instead of upon 30 pounds; that the difference upon our tonnage would be about \$20,000 a year.

Q. Well then, that was a hypothetical proposition on your part?

A. Yes sir.

823 Q. It was not a figuring upon actual weights or upon any facts existing in the conduct of your paper, was it?

A. I don't know as I understand that question.

Q. Perhaps it is not a very plain question, but as I understand you, you have made a hypothetical figuring on the basis that assuming the tonnage of your paper to be what it is and was and assuming the weight of 500 sheets to be 32 pounds instead of 30, that it would make a difference of \$20,000. Now, the only facts in that which you derive from your own business, of your paper, is the tonnage of the paper, isn't it?

A. The only hypothetical—

Q. The only fact there; the rest is hypothetical, isn't it? That is, put it in this way: you don't know from the investigation of your records whether the weight of your paper was 30 or 32 pounds in every instance, do you?

A. Yes.

Q. There is a leeway in the contract of two pounds either way.

A. The only hypothetical thing there is about it, that occurs to me, is whether the General Paper Company demands in every instance the 32 pounds weight.

Q. Demands from whom?

A. From the publisher. Declines to make 30 pound paper.

Q. Well, perhaps this will get at it, Mr. Murphy. Tell me your process of figuring. Did you make the figures yourself, on which you base this \$20,000 estimate?

A. Yes sir.

Q. Now, what method of figuring did you go through and on what basis. State it in your own way.

A. Shall I state it or give the figures?

Q. Why, if you have got the figures I would like to see them. Oh, you want to put the figures down?

824 A. (Figuring.) This is an approximation. Our average is 6000 tons a year. The average price, we will say, is \$42 a ton. That makes, if I have figured correctly, \$252,000 gross price on our paper. The difference between 30-pound and 32-pound paper is 7 per cent. Consequently, if my paper was increased 7 per cent., it would be 7 per cent. on \$252,000; that would make \$17,640 increase on paper, due to the increased weight. Then, we pay postage on about 60 per cent. of our entire paper consumption, at one cent a pound. 60 per cent. of 6000 tons would make 3600 tons. One cent a pound is equal to \$20 a ton. So we would pay \$20 a ton Government postage on 3600 tons of paper, which makes an additional \$7,200 for Government postage.

Q. How do you figure that Mr. Murphy? 600 tons at \$22 would be \$7,000 according to my figuring.

Mr. KELLOGG: Not \$20 a ton, but \$2 a ton, isn't it?

WITNESS: One cent a pound.

Mr. KELLOGG: \$2 a ton, you mean.

WITNESS: It is \$7,200.

Q. Now, how do you make that out. It is one cent a pound, isn't it?

A. Yes, one cent a pound, Government postage.

Q. That is \$20 a ton isn't it?

Mr. KELLOGG: I will let you do your own figuring.

Mr. FLANDERS: I guess that is the safest way for you, Mr. Kellogg.

Mr. KELLOGG: I think likely.

A. That is \$20 a ton.

Q. \$20 a ton on 3600 tons would be \$72,000, wouldn't it?

A. Yes sir.

Mr. KELLOGG: See if he has got his tonnage right.

825 Mr. FLANDERS: I think Mr. Murphy is abundantly capable of taking care of himself.

Mr. KELLOGG: Mr. Murphy can have plenty of time to figure this out.

Mr. FLANDERS: He can have all day on it if he wants to; I am not going to hurry him at all, but I would rather examine him than examine you.

Mr. KELLOGG: That is right; he knows more about it than I do.

Mr. FLANDERS: Not but what you would be a very interesting witness on that subject.

Q. 3600 tons at \$20 a ton makes \$72,000, doesn't it, Mr. Murphy?

A. Yes sir.

Q. Now, you don't wish to be understood as saying that the General Paper Company has increased your postage bill \$72,000 a year by increasing the weight of paper from 30 to 32 pounds, do you?

A. No, they increased it 7 per cent.; they increased my weight of paper 7 per cent.

Q. Well, why is that?

Mr. Kellogg goes up to the witness.

Mr. FLANDERS: Now, Mr. Kellogg—

Mr. KELLOGG: I have got a right to point out to this witness—

Mr. FLANDERS: Just note that counsel takes a position by the side of the witness and instructs him how to testify.

Mr. KELLOGG: I have got a right to call his attention to the error which any man is liable to make when you call on him to make calculations on the witness stand involving that amount of computation.

Mr. FLANDERS: Well, we will have it down just as it is. If you can't trust your witness to make the computation, you haven't
826 as much confidence in him as I have.

Mr. KELLOGG: I can trust him entirely, but any man is liable to make an error.

WITNESS: Well, I don't find that error just now.

Q. Well, take your time about it, Mr. Murphy. It is not necessary you should find it now. You can take the intermission to do it in, if you want to.

Mr. KELLOGG: There is no objection to taking an intermission. I would like to ask the witness a question right now, can I, Mr. Flanders?

Mr. FLANDERS: I have no objection.

By Mr. KELLOGG:

Q. Have you taken 7 per cent. of \$200,000?

(No answer.)

Q. How many tons do you use in a year?

Mr. FLANDERS: Suppose you let him make his own figures, Mr. Kellogg. I would much prefer that, with the greatest respect for your arithmetical ability and legal ability.

Mr. KELLOGG: All right. I want Mr. Murphy to have time to make these calculations for you.

Mr. FLANDERS: Take all the time you want, Mr. Murphy.

WITNESS: All right.

Mr. KELLOGG: Give him until after lunch. Will you figure that out by two o'clock.

WITNESS: Yes.

Mr. Kellogg and Mr. Olds go to the side of the witness.

Mr. FLANDERS: Wait a minute. I either want to have the witness excused and the intermission occur or have the witness in my hands.

Mr. KELLOGG: I understood we had adjourned until two o'clock.

Mr. FLANDERS: That is what I understood.

827 Mr. KELLOGG: I would like to speak to my witness.

Mr. FLANDERS: That is all. I want to know if you have adjourned.

A recess was taken until 2 p. m., at which time the witness was recalled and examined as follows:

By Mr. KELLOGG:

Q. Now, Mr. Murphy, you may make any explanation you wish about those figures.

A. That \$72,000 for postage, Judge, was the total postage, but the 3600 tons represented all the paper that we mailed out. It should be, of course, increasing the weight of our paper 7 per cent., would increase our postage just that amount, which would be 7 per cent. off of 3600 tons, and I couldn't say just where I neglected—

By Mr. FLANDERS:

Q. That would be how much?

A. That would mean 7 per cent. of 3600 tons, which would be 252 tons: at \$20 a ton the Government postage would be \$5,040. We

have already found that the increased cost of white paper would be \$17,640. Adding the white paper and postage together gives \$22,680.

By Mr. KELLOGG :

Q. I do not remember whether I asked you whether you have made any calculation as to increase in expense on account of the wrappers which you mentioned ?

A. Wrappers run about 2 per cent.

By Mr. FLANDERS :

Q. What do you say, Mr. Murphy, as to whether or not the service of the General Paper Company has been good as to quality of paper and the deliveries, etc. ?

828 A. Deliveries have been good. The quality of paper, in my opinion, has let down just a little bit since the General took hold.

Q. Whom did you buy from before that ?

A. Kimberly & Clark.

Q. And whose mill has supplied you since ?

A. Kimberly & Clark continued to supply me for some years, and then the Hennepin, and after that the Rhinelander.

Q. Have you got that Rhinelander contract ?

The contract was handed to Mr. Flanders.

Q. This Rhinelander contract, which is Exhibit 164, is made on precisely the same form of contract as those which you made with the General Paper Company, isn't it, Mr. Murphy ?

A. No, I think not, Judge.

Q. Look at it and see. Compare it, for example, with Exhibit 165.

A. It appears to be the same form as the General is using now, but it is not the same form that the General used all preceding years.

Q. Years previous to what—1904 ?

A. I couldn't speak of the year 1904 because I didn't contract with the General in 1904. In 1903.

Q. Previous to 1904, I said. In what respect does it differ from the 1903 form ? (Handing contract to witness.)

A. That would require a very careful reading of the two contracts.

Q. Well, there doesn't any difference occur to you now, then ?

A. Yes, I think this last contract which I have here makes no provision for the return of white waste at all. I suspect that the clause which declines to give protection to the publishers is slightly different from the old clause.

829 Q. If that is all that occurs to you now, that is enough, perhaps, for my purpose, for the present. What would you say, as to whether or not there has been an increase in prices generally since 1896, '7, '8, '9 and thereabouts ?

A. Judge, I would like to answer that question, but it involves an equation of so many factors that it would be impossible to do anything more than to make a guess. I have seen the statement made and I have seen it published, but as to what it was based upon, the accuracy of it, I really have no basis to form an opinion.

Q. Well, there are some things you know about, aren't there, Mr. Murphy?

A. Yes.

Q. Now, for example, every man knows, I take it, whether or not there has been an increase in the cost of living, if he has had a family to care for and support and pay bills for. I suppose that is a matter within common knowledge. Whether it is so or not, I don't mean to anticipate your answer at all.

A. Yes. We may take, for instance, the question of clothing. They may be lower or higher, I don't know; neither do I know the relationship or the percentage it would bear to the total cost of the living of the family. I know meats are up. I know some things are down. But just taking the entire items that go to make up the cost of living, and equate them, what the sum total would be, I couldn't even guess.

Q. Well, I will put it in this way. You know there has been a very general advance in many of the articles that are produced in the country, do you not?

A. I do.

Q. And that applies to different kinds of products, like lumber and steel and iron and other matters—

A. Yes.

Q. —does it not?

A. Yes, that is true.

830 Q. And there has also been an increase in the prices of labor, has there not, generally?

A. Largely in the cases of organized labor.

Q. Well, organized labor of the class of labor that a publisher has to deal with, isn't it?

A. I should estimate in the Twin Cities about one-third.

Q. One-third of the labor or one-third of the—

A. One-third of the total wage paid out by a newspaper would go to organized labor.

Q. Now, I don't mean to ask you what kind of labor you use in your establishment, but assuming that you use union labor, you wouldn't use both union and non-union labor in the same office, would you?

A. Yes.

Q. If you did, would there be a difference in prices of the two classes in the same work?

A. They are operating in different departments and consequently are not compared on the same basis.

Q. Not doing the same class of work?

A. They are not doing the same class of work.

Q. Now, what would you say was the increase of the price of labor in your line of business?

A. I think our last scale increased the price of labor about 7 per cent.

Q. And when was that increase made?

A. Two years ago.

Q. And when was the one previous to that made?

A. Five years preceding.

Q. And when was the one previous to that? Are they 5-year periods?

A. The preceding five years I ran non-union.

By Mr. KELLOGG :

831 Q. Mr. Murphy, have presses and material, other than paper, which you use, increased any since 1899?

A. No, the cost of presses has been reduced.

Q. Do you know whether iron and steel have increased any in cost since 1899?

A. I do not.

(S'g'd)

W. J. MURPHY.

Subscribed and sworn to before me this 1st day of Sept., 1905.

ROBT S. TAYLOR,
Special Examiner.

832 GEORGE THOMPSON, being duly sworn as a witness on behalf of the petitioner, testified :

Direct examination.

By Mr. OLDS :

Q. What is your business, Mr. Thompson?

A. Publishing a newspaper.

Q. What paper?

A. St. Paul Dispatch.

Q. How long have you been the publisher of that paper?

A. 18 years.

Q. Did you have anything to do with making the contract of the St. Paul Dispatch for news print paper during the present year?

A. The preliminaries, yes.

Q. What do you mean by the preliminaries?

A. Leading up to the signing of the contract.

Q. And with whom did you carry on the negotiations?

A. Mr. Davis.

Q. Mr. John A. Davis of the General Paper Company?

A. Mr. John A. Davis.

Q. Did you have any other bidder for your contract this year than the General Paper Company?

Objected to by defendants as irrelevant, incompetent and immaterial.

A. No.

Q. Did you try to get any other bid?

Same objection, and calling for the opinion of the witness.

A. Yes sir.

Q. What efforts did you make?

Same objection.

833 A. Trying to find out any independent mill; seeking a bid from the Great Northern Paper Company and from the International.

Q. Were you able to secure any bid elsewhere than through the General Paper Company?

Same objection by defendants.

A. No sir.

Q. Have you the contract that you made?

Witness hands papers to Mr. Olds. The contract was marked for identification Petitioner's Exhibit 166, and letter attached thereto Exhibit 167.

Q. I show you Petitioner's Exhibit 166 and also Petitioner's Exhibit 167. Do those papers constitute the contract you speak of?

A. Yes sir.

Q. That is the contract you made this year?

A. Yes sir.

Q. Was this Petitioner's Exhibit 167 delivered at the same time as the other Exhibit 166?

A. No.

Q. It was not?

A. No.

Q. Well, do they constitute one contract, that is what I want to know.

A. Yes, one contract, only this had to be written out in form in the office and it was sent to me by mail afterwards.

Q. That is, the letter was sent to you afterwards, and the other form was made up in your office?

A. Yes. Oh, I think it had been made up previous to coming into my office.

Q. At the time of the making of this contract was anything said by the representative of the General Paper Company about the approval of any mill or manufacturer or company that was to make the paper?

A. No sir.

Petitioner offered in evidence Petitioner's Exhibits 166 and 167.

834-1460 Objected to by defendants as incompetent, irrelevant and immaterial.

No cross-examination.
(S'g'd)

GEORGE THOMPSON.

Subscribed and sworn to before me this 19th day of August, 1905.
ROBT S. TAYLOR,
Special Examiner.

Counsel on both sides agree that the witnesses may read over their testimony and sign it before the examiner without the presence of counsel; witnesses, however, not to make any substantial change in their testimony without an opportunity to counsel to examine them in regard to such changes.

The hearing was thereupon adjourned, to be resumed at the call of the examiner.

* * * * *

1461

PETITIONER'S EXHIBIT 151.

United States Circuit Court, District of Minnesota, Third Division.

Civil Cause.

The President of the United States of America to B. F. Nelson, individually — as president of the Hennepin Paper Company, Minneapolis, Minnesota, Greeting :

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of St. Paul and State of Minnesota, at 10 o'clock in the afternoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit :

First. The account-books, including the journals, ledgers and other books kept by or under the control of the defendant Hennepin Paper Company or the said B. F. Nelson, president of the said Hennepin Paper Company.

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant paper company, and sold by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Hennepin Paper Company, since the 5th day of July, 1900, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July 1900:

(B.) Showing the prices, amounts of credits received for such paper from defendant General Paper Company, between the 5th day of

July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Hennepin Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of July, 1900, and the present time.

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Hennepin Paper Company from or through the defendant General Paper Company either directly or indirectly, either
1463 in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time.

Second. All contracts, agreements, writings and account-books, including journals, ledgers and other books, kept by or under the control of the defendant Hennepin Paper Company or the said B. F. Nelson, president of the said defendant Hennepin Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Hennepin Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company are and have been, since the 5th day of July, 1900, equalized, or the profits arising from the same of such paper distributed or apportioned, as between the said defendant Hennepin Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or amount all of the defendants manufacturing similar kinds or grades of paper, and then and there to testify and the truth to say, in a certain matter of controversy in said court depending between The United States of
1464 America, complainant, and General Paper Company *et al.*, defendants, on the part of said complainant, hereof fail not.

Witness, the Honorable Melville W. Fuller,
Seal U. S. Circuit Chief Justice of the Supreme Court of the United
Court, Dist. of States, this 17th day of July, A. D. 1905.
Minn., Third Issued at my office in the said city of St. Paul
Division. under the seal of said circuit court, the day and
year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

1465

PETITIONER'S EXHIBIT 152.

United States Circuit Court, District of Minnesota, Third Division.

Civil Cause.

The President of the United States of America to A. C. Bossard individually and as treasurer of the Itasca Paper Company residing at Grand Rapids, Minnesota, and H. G. Becker individually and as secretary of the Itasca Paper Company residing at Grand Rapids, Minnesota, Greeting:

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building in the city of Saint Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause, and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit:

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Itasca Paper Company or the said A. C. Bossard and H. C. Becker, treasurer and secretary respectively of the defendant Itasca Paper Company.

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant Itasca Paper Company, and sold 1466 by or through the defendant General Paper Company as the exclusive sales agent of the said defendant Itasca Paper Company, since the 5th day of February, 1902 and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of February, 1902.

(B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Itasca Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 5th day of February, 1902 and the present time.

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Itasca Paper Company, from or through the defendant General Paper Company, either directly or indirectly, either in

the form of dividends or in the form of rebates, credits, or otherwise, between the 5th day of February, 1902 and the present time.

Second. All contracts, agreements, writings and account books, including journals, ledgers and other books, kept by or under the control of this defendant Itasca Paper Company or the said 1467 A. C. Bossard and H. G. Becker treasurer and secretary respectively, of the said defendant Itasca Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Itasca Paper Company, upon the various kinds and grades of paper manufactured by it, and sold by or through the defendant General Paper Company, are and have been, since the 5th day of February, 1902, equalized, or the profits arising from the same of such paper distributed or apportioned, as between the said defendant Itasca Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or amount all of the defendants manufacturing similar kinds or grades of paper, and then and there to testify and the truth to say in a certain matter of controversy in said court, depending between the United States of America complainant and General Paper Company *et al.*, defendants, on the part of said complainant, hereof fail not.

[SEAL.]
Seal U. S. Circuit Court,
District of Minn., Third
Division.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17th day of July, A. D. 1905.

Issued at my office in the city of St. Paul, under the seal of said circuit court, the day and year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

Return of Service of Writ.

1468 UNITED STATES OF AMERICA, } ss:
District of Minn.,

I hereby certify and return that I served the annexed witness subpoena on the therein-named A. C. Bossard, individually and as treasurer of the Itasca Paper Company and H. G. Becker, individually and as secretary of the Itasca Paper Company by handing to and leaving a true and correct copy thereof with them personally at Grand Rapids in said district on the twentieth day of July A. D. 1905.

WM. H. GRIMSHAW,
U. S. Marshal.
FRANK W. LUFTS, Deputy.

1469

PETITIONER'S EXHIBIT 153.

United States Circuit Court, District of Minnesota, Third Division.
Civil Cause.

The President of the United States of America to C. I. McNair, individually and as general manager of the Northwest Paper Company, residing at Cloquet, Minnesota, Greeting :

You are hereby commanded to be and appear, without excuse or delay before Robert S. Taylor, special examiner of the United States circuit court for the district of Minnesota, at the United States district court room in the Federal building at the city of St. Paul and State of Minnesota, at ten o'clock in the forenoon, on the 24th day of July, 1905, then and there to be examined and to give evidence on the part of the petitioner in the above cause and to bring with you and produce at the time and place aforesaid the following books, papers and documents, to-wit :

First. The account books, including the journals, ledgers and other books kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair, general manager of the said Northwest Paper Company.

(A.) Showing the amounts, kinds or grades of paper manufactured by the said defendant Northwest Paper Company and sold by or through the defendant General Paper Company as the exclusive sales' agent of the said defendant Northwest Paper Company, since the 8th day of April, 1902, and also showing where the said paper so manufactured and sold has been shipped, since the 5th day of July, 1900 :

1470 (B.) Showing the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 8th day of April, 1902, and the present time, including entries showing the manner in which the prices and amounts received or realized by the said defendant Northwest Paper Company, for any or all of its products so sold by or through the defendant General Paper Company, have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the defendant General Paper Company is and has been the exclusive sales agent, for any and all of their products or for similar products, between the 8th day of April 1902 and the present time :

(C.) Showing the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the defendant Northwest Paper Company, from or through the defendant General Paper Company either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 8th day of April 1902 and the present time.

Second. All contracts, agreements, writings and account books,

including journals, ledgers, and other books, kept by or under the control of the defendant Northwest Paper Company or the said C. I. McNair general manager of the said defendant Northwest Paper Company, showing the agreement, arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the said defendant Northwest Paper Company upon the various kinds and grades of paper manufactured by it and sold by or through the defendant General Paper Company, are and have been since the 8th day of April, 1902, equalized or the profits arising from the same of such paper distributed or apportioned, as between the said defendant Northwest Paper Company and other defendants manufacturing and selling through the defendant General Paper Company similar kinds or grades of paper, or amount all of the defendants manufacturing similar kinds or grades of paper, and then and there to testify and the truth to say, in a certain matter of controversy in said court, depending between the United States of America complainant and General Paper Company *et al.* defendants, on the part of said complainant, hereof fail not.

Witness, the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17th day of July, A. D. 1905.

Seal United States Circuit Court, District of Minnesota, Third Division.

Issued at my office in the city of St. Paul, under the seal of said circuit court, the day and year last aforesaid.

HENRY D. LANG, Clerk.

JAMES M. BECK AND
FRANK B. KELLOGG,
Complainant's Solicitors.

1472 Return of Service of Writ.

UNITED STATES OF AMERICA, } ss:
District of Minnesota,

I hereby certify and return that I served the annexed witness subpoena on the therein named C. I. McNair individually and as general manager of the Northwest Paper Company by handing to and leaving a true and correct copy thereof with him at Cloquet in said district on the twentieth day of July A. D. 1905.

WM. H. GRIMSHAW,
U. S. Marshal,
By FRANK W. LUFTS, Deputy.

1473

PETITIONER'S EXHIBIT 153½.

Contract.

This agreement made this ninth day of February, 1899, by and between the Northwest Paper Company, of Cloquet, Minnesota, and the Journal Printing Company, of Minneapolis, Minnesota, whereby said paper company agrees to supply the Journal Printing Company all the paper said Journal Company may require for itself, the Times, or desire to furnish newspapers it may print, and said Journal Printing Company agrees to take its entire supply from said Northwest Paper Company during life of said contract.

Above subject to the following conditions:

Time.—This agreement to be in force from time their mills at Cloquet commence to manufacture paper until April first, 1900. The Journal Printing Company to have the privilege of extending this contract one year from April first, 1900, on the same conditions at a rate not exceeding \$1.80 per hundred pounds.

Quality.—The paper to be of good quality, with finish adapted to the best results for printing and half tones. In other words, paper equal to that now being furnished The Minneapolis Tribune, by the Kimberly Clark Company.

Color.—A dead white, or such color as the Journal Printing Company may desire.

Size of roll.—34 inches and 17½ inches, or any width as may be ordered.

Basis of weight.—Seventy-two (72) pages of seven column paper to the pound; if less than seventy (70) pages, same will be charged back to said paper company.

1474 Delivery.—Paper to be delivered in basement of Journal building. If Journal Printing Company desires to deliver the paper they shall be allowed six cents a roll.

Waste.—White waste to be billed back at the full price.

Price.—1.65-100 cents per pound. Ninety days or three (3) per cent. off for cash on tenth of following month.

Spools.—Spools and white waste to be taken from said Journal basement by said paper company.

Supply.—The said paper company guarantees to keep a sufficient quantity of 34 and 17½ inch rolls in Journal basement to supply the Journal's daily demands for itself and its patrons.

(Signed)

(Signed)

C. I. McNAIR,
Mgr. Northwest Paper Co.
LUCIAN SWIFT,
Mgr. Journal Printing Co.

Attest:

W. D. HASKELL.

MINNEAPOLIS, MINN. May 1, 1900.

The above contract is hereby continued for one year from date at \$1.80 per 100 lbs.

NORTHWEST PAPER CO.,
C. I. McNAIR, Mgr.

MINNEAPOLIS, MINN. April 22, 1901.

This contract is hereby extended for one year from May 1, 1901 as to all conditions and requirements except as to price, that bring changed to 1.90 per 100 pounds.

NORTHWEST PAPER CO.,
C. I. McNAIR, Gen'l Mgr.

1475

PETITIONER'S EXHIBIT 154.

Contract price 1900, including the following:		Cwt.
Weight basis 29 lb. 24 x 36	}	\$1.65
3 % discount for cash.....		
White waste returned at full value		
Delivered in our basement..		
Contract price 1904.....		\$2.11½
The following we pay extra:		
Freight	}	.49
Drayage		
Waste, 1-7-7/10 %		
Cash discount.....		
Weight increase from 29 to 32 lb. (10 %).....		
Tare (extra wrappers 17 lbs. on each roll).....		
Postage acc't increase weight of sheet.....		
		2.60½
58 % increase95½

I hereby certify that the above statement is true and correct as to the best of my knowledge and belief.

LUCIAN SWIFT, Mgr.

1476

PETITIONER'S EXHIBIT 155.

General Paper Company, Rooms 1014-1020, Merchants' Loan & Trust Bldg., Cor. Clark & Adams Street.

CHICAGO, ILL., April 13, 1903.

Mr. C. W. Hornick, St. Paul Dispatch, St. Paul, Minn.

DEAR SIR: I regret very much to advise you that various matters will prevent my coming to St. Paul this month. I am, however, sending our Mr. Mendsen who has handled the matter for you before as my full representative.

We have talked the situation over, and are prepared to make you a most excellent proposition for immediate acceptance. It is a price lower than I would be willing to repeat later.

Labor troubles of serious importance are facing us for the next few months, and we are cutting down our contract obligations to quite moderate lines.

We are turning down new business, as are most of the mills in the other parts of the country, so that even if the labor troubles became quite extended, we can be reasonably sure of being able in some way to care for our good and loyal customers.

I sincerely hope that you will see fit to enter your contract with us for another year, and I hope you will realize that neither 1477 last year nor this, when we unquestionably had it in our hands to have extracted an abnormal price, did we take advantage of the situation.

With kind regards, I am

Yours very truly,

GENERAL PAPER COMPANY.
W. Z. STUART, Manager.

W. Z. S.

P. S.—The basis of weight that has been adopted in full by the mills of the country as a standard is 24 x 36—32 lb. .to 500 sheets.

1478

PETITIONER'S EXHIBIT 156.

Office of the Pioneer Press Company, Frederick Driscoll, General Manager.

ST. PAUL, MINN., 2, 14, '99.

The Pioneer Press Company's present contract for roll print paper terminates in April next.

Proposals are solicited for a term of six months one year or two years, as contractor may elect.

Proposals will provide for first delivery April 15-20, 1899 on the following basis:

(1.) Quality to be equal in strength and finish to that now used, as per sample enclosed.

(2.) Only paper actually used is to be paid for, so that all white waste, cores and wraps will be deducted by actual weight from weight of rolls as delivered to and weighed by us on scales.

(3.) All paper is to be delivered at our building, free of charge to us for freight or drayage, in sufficient quantity for our current use.

(4.) Two carloads of paper, with proper proportion of long and short rolls, in excess of what is stored in our building, shall be kept in convenient storage in this city at all times, free of expense to us for storage.

(5.) Settlement shall be made monthly on the 10th of each month for all paper used by us the preceding month, either by a three months' note from that date, or if cash is paid, by a certain 1479 discount, in which latter case you will name the maximum discount you will allow.

(6.) If the quality of paper furnished by the successful bidder should deteriorate at any time during the life of the contract, the Pioneer Press Company shall have the option of terminating the contract, if the contractor fails to restore the quality to the original standard without delay.

(7.) The roll print called for is to be in rolls of three different lengths, viz: 70 inches, 35 inches, and 17½ inches long. The weight of the paper is to be 118 pounds per thousand sheets of size 35" x 47".

(8.) Our consumption is between 80 and 90 tons per month—privilege to use more or less to be included in contract.

(9.) All proposals accompanied by sample of paper proposed to be furnished, must be addressed to the undersigned and delivered at this office on or before March 15, 1899. The right is reserved to reject any or all bids.

Awaiting receipt of your proposal, if you desire to make one on these terms, and if not, your reply to that effect, I am

Yours truly,

_____,
General Manager.

ST. PAUL, March 20, '99.

We will furnish paper on above conditions (excluding condition No. 7) for one year for one 75 / 100 dollars per hundred pounds.

HENNEPIN PAPER CO.,
By B. F. NELSON, Pres.

1480

PETITIONER'S EXHIBIT 157.

Agreement made this 14th day of April, 1900, between Hennepin Paper Company of the city of Minneapolis, hereinafter called the manufacturer, party of the first part, and the Pioneer Press Company, of the city of St. Paul, Minn., hereinafter called the purchaser, party of the second part, witnesseth:

That the parties hereto, in consideration of the mutual promises and agreements of each other and of the sum of one dollar and other goods and valuable considerations, each to the other in hand paid, the receipt whereof is hereby acknowledged, do hereby covenant and agree to and with each other as follows, that is to say:

First. The Manufacturer hereby agrees to sell and furnish to the purchaser and the purchaser hereby agrees to purchase and take from the manufacturer for use in the publication of the Pioneer Press newspapers published in the city of St. Paul, Minn., 80 tons (with a leeway over or under five per cent. in quantity) of paper per month during the year from the 14th of April, 1900, to the 14th day of April, 1901, at the price and upon the terms hereinafter particularly stated.

The said paper shall be of the same quality as the sample—8-8 page papers to the pound—attached to this contract and on the following basis of weight and shall be delivered by the manufacturer to the purchaser, at St. Paul, Minnesota.

Second. The purchaser hereby covenants and agrees to pay to the manufacturer for all paper to be furnished and delivered under this agreement \$2.25 per hundred pounds actual net weight of the 1481 rolls or bundles including paper, wrappers and twine, but excluding the weight of the cores. Such payment shall be made in cash or 90 day note on the tenth day of each month for all paper so delivered during the preceding month. The basis of weight shall be the ordered weight, as hereinbefore provided, without reference to a production basis, but the paper is to be run as near to the ordered weight as practicable.

Cores shall be charged at the market price of cores, and shall be credited back at the same price at the contract point of delivery for paper when the bill of lading showing the number of cores is received by the manufacturer, and any balance of cores not returned at the times of settlement shall be paid for by the purchaser, and if subsequently returned, shall be credited upon the next settlement.

Third. The manufacturer agrees to purchase white waste from the purchaser at seventy-five cents per one hundred pounds as shall come from paper delivered under this contract and at the point of delivery of paper, if properly packed by the purchaser, upon receipt of the bill of lading by the manufacturer, but no allowance shall be made for paper remaining on the cores.

No claims for damaged paper shall be entertained by the manufacturer unless the purchaser states in his receipt for the goods that

the same are damaged and immediately advises the manufacturer of that fact. All such damaged paper shall be kept for disposal of the manufacturer.

All paper required by the purchaser to be carried in storage for the benefit of the purchaser shall be at his expense, and shall be treated as actually delivered to and owned by the purchaser.

In case the mills shall be unable to at any time furnish the paper required by this contract in consequence of strikes, fire, flood, war or causes beyond the control of the manufacturer, the manufacturer shall give prompt notice to the purchaser and the purchaser upon receiving such notice shall obtain the paper required elsewhere, and the manufacturer shall be liable only for the difference between the market price and the contract price for paper similar in grade to that contracted for during the period in which the manufacturer is prevented from furnishing such paper by the causes hereinbefore mentioned.

The purchaser shall not be compelled to accept deliveries under this contract when prevented from using the paper in consequence of fire, strikes, flood, war, or causes beyond his control.

Fifth. In case the purchaser shall fail to pay any amounts due thereunder or any note or notes given in settlement within ten days after maturity, the manufacturer may, at his option cancel this contract and refuse to furnish any more paper thereunder, and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract, but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure. This contract shall commence on the 14th day of April, A. D. 1900 and shall terminate on the 14th day of April, A. D. 1901.

1483 In witness whereof the parties have hereunto set their hands and seals the day and year first above written.

HENNEPIN PAPER COMPANY,
By B. F. NELSON, President.
PIONEER PRESS COMPANY,
By CONDE HAMLIN, Gen. Manager.

Witness :
FRED T. KRAFFT.

Witness :
FRED JOHNSTON.

As supplementary to contract of this date we hereby agree to waive specific amount of paper and supply the amount needed by the Pioneer Press up to one hundred (100) tons per month with reasonable notice. Further, in order to protect the Pioneer Press from any competition especially the Dispatch, we will deliver the paper in

their basement and will take back all white waste they make up to two per cent., at the price delivered in the basement.

HENNEPIN PAPER COMPANY,
By B. F. NELSON, Pres.
PIONEER PRESS COMPANY,
By CONDE HAMLIN.

FRED T. KRAFFT, Witness.

FRED JOHNSTON, Witness.

1484

PETITIONER'S EXHIBIT 158.

Memorandum of Agreement Made This Twenty-second Day of April, 1901, Between the Northwest Paper Company, Party of the First Part, and the Pioneer Press Company, Party of the Second Part.

In consideration of the payments herein agreed to be made by the party of the second part, the party of the first part hereby agrees to sell, furnish and supply the party of the second part the quantity of paper hereinafter specified, of the quality, color, size and weight herein described, and to deliver the same to the party of the second part at the times and in the quantities and manner hereinafter provided, viz:

Quality.—The paper so to be sold, supplied and furnished by the first party to the second party shall be of the same quality which is now being used in the publication of the Pioneer Press with finish adapted to the best results for printing and use of halftones.

Color.—Said paper shall be of the color which is now used in the publication of the Pioneer Press or such other color as the second party may desire and direct.

Size of rolls.—Said paper shall be delivered in rolls seventy (70) inches wide, thirty-five (35) inches wide and seventeen and one-half (17½) inches wide, unless otherwise ordered by the second party, and the same shall be delivered in rolls of any width which the second party may desire and direct.

Basis of weight.—Said paper shall be of such weight that eight (8) eight-page papers in the form now used by the Pioneer Press shall weigh one pound. If any of said paper is of greater weight, the excess weight of such paper may be charged back to the
1485 first party.

Delivery.—Said paper shall be delivered in the basement of the Pioneer Press building at the corner of Fourth and Robert streets, St. Paul, by party of the first part.

Waste.—White waste, spools and wraps shall be billed back at full price and shall be taken away by the party of the first part from the basement of said Pioneer Press building promptly and without allowing the same to accumulate so as to occupy space needed by the party of the second part.

Supply.—Said first party agrees to deliver and keep on hand in the said basement of the Pioneer Press building or in warehouse subject to immediate call of the second party at all times, a sufficient quantity of seventy-inch, thirty-five-inch and seventeen and one-half inch rolls of said paper to supply the daily demands and requirements of said second party in the publication of its daily newspaper; and said first party agrees to sell and deliver, and said second party agrees to receive and pay for, such amount of said paper as may be required for the publication and distribution of the Pioneer Press newspaper, which amount shall be eighty-five tons, more or less, in each month during the period of this contract, and as much more as the said second party may require and order for the publication of said paper. The said party of the second part shall not be compelled to accept deliveries under this contract when prevented from using the paper in consequence of fire, strikes, flood, war or causes beyond its control.

1486 Price.—The price of said paper is hereby agreed to be one dollar and eighty-seven and one-half cents (\$1.87½) per pound net weight, and the party of the second part hereby agrees to pay for the same at that rate. Such payment shall be made in cash or ninety-day note on the tenth of each month for paper used during the preceding month. It is further agreed that if payment is made on or before the tenth day of the month following the delivery thereof, a discount of three (3) per cent. shall be allowed from the contract price above specified.

Time.—This agreement shall be in force from April 22nd, 1901 to April 22nd, 1902.

In witness whereof the parties have caused this agreement to be signed by their proper officers respectively, the day and year first above written.

THE PIONEER PRESS CO.,
By CONDE HAMLIN, Gen. Mgr.
NORTHWEST PAPER CO.,
By C. I. McNAIR, Gen'l Mgr.

Witnesses:

FRED JOHNSTON.
J. N. JACKSON.

1487 PETITIONER'S EXHIBIT 159.

Northwest Paper Company, Manufacturers.

CLOQUET, MINNESOTA, April 6, '99.

Evening Herald, A. C. Weiss, manager, Duluth, Minn.

DEAR SIR: Agreeable to our conversation yesterday, we will supply all of your roll print paper for one year at \$1.75 per 100 lbs., f. o. b., Duluth, 3 % discount for cash.

Yours etc.,

NORTHWEST PAPER CO.
C. I. McNAIR, Mgr.

1488

PETITIONER'S EXHIBIT 160.

Northwest Paper Company, Manufacturers.

CLOQUET, MINNESOTA, Jan. 18, 1901.

Duluth Printing and Pub. Co., Duluth, Minn., Mr. A. E. Weiss,
mgr.

DEAR SIR: Agreeable to our conversation of yesterday we enter your order for your entire supply of printing paper for one year from date at \$2.10 per hundred pounds f. o. b. Duluth, 3 % discount for cash, this being the same terms as heretofore. The sizes you use are 22 in. and 44" rolls, rolls not to exceed 32" in diameter.

We appreciate greatly this order and can assure you it will have our very best attention. Kindly confirm this letter for our records.

Yours etc.

NORTHWEST PAPER COMPANY,
C. I. McNAIR, Mgr.

1489

PETITIONER'S EXHIBIT 161.

This memorandum of agreement made and entered into this 11th day of January, 1901, by and between Minnesota Tribune Company of Minneapolis, Minnesota, party of the first part, and the General Paper Company of Milwaukee, Wisconsin, party of the second part, witnesseth:—

For and in consideration of the sum of one dollar and other valuable considerations, the receipt of which is hereby acknowledged, the party of the second part agrees to ship from the mills of the Kimberly & Clark Company, and the party of the first part agrees to take said 200 tons per month of roll print paper for one year from January 29th, 1901, upon the following terms and conditions, which are hereby mutually agreed to,

First.—On proper notice it shall be the option of the party of the first part to increase or diminish said 200 tons per month to the extent of five per cent. (5 %) but only in accordance with his consumption. Should the consumption demand more than the maximum quantity named, then a separate transaction is to be made at the market price for such increase if called for by the party of the second part.

Quality.—The second party agrees that said paper shall be suitable as to quality, color, finish and strength satisfactory to the first party, fully equal in all respects to the grade furnished in recent years, all as per sample hereto attached.

Width of rolls.—Forty-seven (47) and twenty-three and one-half (23½) inch and in such proportion as party of the first part may direct.

1490 Fire and damage risk.—When, under this contract, a car of paper arrives in the city of Minneapolis, and notification of its arrival has been given to first party by the railroad company, then from the time of said notification, the second party is to be delivered from all responsibility from fire or damage on such car of paper.

Basis and weight.—To be twenty-four and thirty-six (24 x 36) thirty pounds to five hundred sheets (500), or practically so.

Full weight.—Payments to be made for gross weight of the rolls, including paper, wrapper and twine.

Cores.—To be charged for at market price and to be credited back when returned, credit to be given for cores when the proper B/L covering the number of iron cores returned is received by the mill.

Price.—Shall be two eighteen (\$2.18) delivered.

Terms.—Settlement is to be made by note of party of the first part, net sixty days, or by cash less three per cent. (3 %) thirty days for amount of each shipment. Time is in both cases to be reckoned from date of invoice. Condition same as heretofore.

Emergency clause.—Party of the second part shall not be compelled to pay damages for failure to deliver paper contracted for, nor shall party of the first part be under penalty of damages for refusing to accept deliveries under this contract, if prevented by the elements, fire, strikes, or causes beyond control; except in case of such calamitous inability, the party of the second part guarantees that it will purchase a substitute paper, and purchase it in time to fulfill the contract obligations contemplated herein and shall
1491 deliver the same at cost to party of the first part during such period of disablement.

Delivery.—The first party agrees to deliver from care to press room, if second party elects to have it do so, the 47 inch roll paper for ten cents (10c.) per rolls and the 23½ inch roll paper for five cents (5c.) per roll.

Waste.—White waste will be allowed at one cent (1c.) per pound and return freight, but not cartage. No other allowance for waste. No paper is to be run on production basis.

Executed in duplicate on this 11th day of January, 1901.

GENERAL PAPER CO.,

Per STUART.

MINNESOTA TRIBUNE CO.,

By W. J. MURPHY.

1492 PETITIONER'S EXHIBIT 162.

Agreement made this 11th day of February nineteen hundred and two between General Paper Company, a corporation organized under the laws of the State of Wisconsin, hereinafter called the manufacturer, party of the first part, and Minnesota Tribune Company of the city of Minneapolis, hereinafter called the purchaser, party of the second part. Witnesseth: That

The parties hereto, in consideration of the mutual promises and agreements of each other and of the sum of one dollar and other good and valuable considerations each to the other in hand paid, the receipt whereof is hereby acknowledged, do hereby covenant and agree to and with each other as follows, that is to say:

First. The manufacturer hereby agrees to sell and furnish to the purchaser, and the purchaser hereby agrees to purchase and take from the manufacturer, for use in its publication and those of its tenants newspapers published in the city of Minneapolis, Minn., 3,300 tons of roll news with a leeway of ten per centum (10 %) over or under in quantity of paper per year estimated rate of consumption 275 tons per month, during the year from January 29th, 1902 to January 29th, 1903, at the price and upon the terms hereinafter particularly stated.

The said paper shall be of suitable color, finish and strength and commercially equal to that furnished in recent years and on following basis of weight 24 x 36 x 30 to 500 sheets and shall be 1493 delivered by the manufacturer to the purchaser f. o. b. cars Minneapolis, Minn.

Paper to be shipped in carload lots upon 15 days' notice to ship as per shipping schedule regularly furnished by the purchaser.

Width of rolls 67"-33½"-47"-23½".

Diameter of rolls large as possible.

Weight of rolls large as possible.

Kind of cores { Wood, 2½ inch square hole.
Iron, 3 inch diameter as at present.

Kind of press Hoe quad and Potter triple.

Second. The purchaser hereby covenants and agrees to pay to the manufacturer for all paper to be furnished and delivered under this agreement, two dollars (\$2.00) per hundred pounds actual gross weight of the rolls or bundles, including paper, wrapper and twine, but excluding the weight of the cores. Such payment shall be made in cash less 3 % 30 days from date of invoice or by sixty day note the 10th day of each month for all paper so delivered during the preceding month. The basis of weight shall be the ordered weight, as hereinbefore provided, without reference to a production basis, but the paper is to be run as near to the ordered weight as practicable.

Cores shall be charged at the market price of cores, and shall be credited at the same price at the contract point of delivery for paper when the bill of lading showing the number of cores is received by the manufacturer, and any balance of cores not returned at the times of settlement shall be paid for by the purchasers and if subsequently returned shall be credited upon the next settlement.

1494 Third. The manufacturer agrees to purchase white waste from the purchaser at one dollar per one hundred pounds as shall come from paper delivered under this contract and at the point of delivery of paper if properly packed by the purchaser, upon

receipt of the bill of lading by the manufacturer, but no allowance shall be made for paper remaining on the cores.

No claims for visibly damaged paper shall be entertained by the manufacturer, unless the purchaser states in his receipt for the goods that the same are damaged and immediately advises the manufacturers of that fact. (*) All such damaged paper shall be kept for disposal of the manufacturer or of the railway agent as the case may be.

All paper required by the purchaser to be carried in storage for the benefit of the purchaser shall be at its expense and be treated as actually delivered to and owned by the purchaser, when paper is on track Minneapolis.

Fourth. In case the mills shall be unable at any time to furnish the paper required by this contract in consequence of strikes, fire, flood, war or causes beyond the control of the manufacturer, the manufacturer shall give prompt notice to the purchaser, and during such period of disablement the manufacturer guarantees to purchase a substitute paper in time to fulfill the contract obligations contemplated herein and shall deliver the same at cost to the purchaser.

The purchaser agrees to deliver from cars to press room at a cent per hundred pounds for account of the manufacturer, if desired.

1495 The purchaser shall not be compelled to accept deliveries under this contract during the time it is prevented from using any paper in consequence of fire, strikes, flood, war or causes beyond its control.

Fifth. In case the purchaser shall fail to pay any amounts due thereunder or any note or notes given in settlement within ten days after maturity the manufacturer may, at its option, cancel this contract and refuse to furnish any more paper hereunder, and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract, but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure. This contract shall commence on the 29th day of January, 1902 and shall terminate on the 29th day of January, 1903.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

GENERAL PAPER COMPANY.
W. Z. STUART, Mgr.
MINNESOTA TRIBUNE CO.,

By W. J. MURPHY,

General Manager.

"*"—However, should the paper when in use prove damaged or seriously defective, it is to be set aside for disposition of the manufacturer.

1496

PETITIONER'S EXHIBIT 163.

Agreement made this 11th day of January nineteen hundred and two between the General Paper Company a corporation organized under the laws of the State of Wisconsin, hereinafter called the manufacturer, party of the first part, and the Minnesota Tribune Company of the city of Minneapolis, hereinafter called the purchaser, party of the second part, witnesseth: That

The parties hereto, in consideration of the mutual promises and agreements of each other and of the sum of one dollar and other good and valuable considerations each to the other in hand paid, the receipt whereof is hereby acknowledged, do hereby covenant and agree to and with each other as follows: that is to say:

First. The manufacturer hereby agrees to sell and furnish to the purchaser, and the purchaser hereby agrees to purchase and take from the manufacturer for its publication and those of its tenants a newspaper published in the city of Minneapolis, Minn. 3,300 tons of roll news with a leeway of five per centum (5%) over or under in quantity of paper each year. Estimating rate of consumption 275 tons per month during the year, from January 29th, 1903, to January 29th, 1904, at the price and upon the terms hereinafter particularly stated.

The said paper shall be of suitable color, finish and strength and commercially equal to that furnished in recent years and on the following basis of weight 24 x 36-30 to 500 sheets and shall be delivered by the manufacturer to the purchaser in its basement Minneapolis, Minn.

1497 Paper to be shipped in carload lots upon fifteen days' notice to per ship as shipping schedule regularly furnished by the purchaser.

Width of rolls 67"-33½" 50½".

Diameter of rolls large as possible.

Weight of rolls, approx. large as possible.

Kind of cores { wood 2½-inch square hole.
 { iron, 3-inch diameter as at present.

Kind of press Hoe quad.

Second. Purchaser hereby covenants and agrees to pay to the manufacturer for all paper to be furnished and delivered under this agreement two dollars and fifteen cents (\$2.15) per hundred pounds, actual gross weight of the rolls or bundles including paper, wrapper and twine, but excluding the weight of the cores. Such payments shall be made in cash less three per cent. thirty days from date of invoice or by sixty day note net the tenth day of each month for all paper so delivered during the preceding month. The basis of weight shall be the ordered weight, as hereinbefore provided, without reference to a production basis, but the paper is to be run as near to the ordered weight as practicable.

Cores shall be charged at the market price of cores, and shall be

credited at the same price at the contract point of delivery for paper when the bill of lading showing the number of cores is received by the manufacturer and any balance of cores not returned at the times of settlement shall be paid for by the purchasers and if subsequently returned shall be credited upon the next settlement.

Third. The manufacturer agrees to purchase white waste from the purchaser at seventy-five cents per one hundred pounds 1498 as shall come from paper delivered under this contract and at the point of delivery of paper if properly packed by the purchaser, upon receipt of the bill of lading by the manufacturer, but no allowance shall be made for paper remaining on the cores.

No claims for visibly damaged paper shall be entertained by the manufacturer, unless the purchaser states in his receipt for the goods that the same are damaged and immediately advises the manufacturer of that fact. "*" All such damaged paper shall be kept for disposal of the manufacturer or of the railway agent as the case may be.

All paper required by the purchaser to be carried in storage for the benefit of the purchaser shall be at its expense and shall be treated as actually delivered to and owned by the purchaser when paper is on track, Minneapolis.

Fourth. In case the mill shall be unable to at any time furnish the paper required by this contract in consequence of strikes, fire, flood, war or causes beyond the control of the manufacturer, the manufacturer shall give prompt notice to the purchaser, and the purchaser upon receiving such notice shall obtain the paper required elsewhere during such period of disablement without liability to the manufacturer.

The purchaser agrees to deliver from cars to press room at thirty cents per ton for account of the manufacturer, if desired. Option is hereby extended to the purchaser by the manufacturer of an extension of this contract, in price, terms and conditions for the six months ensuing from Jan. 29th, 1904, provided the option for such extension is exercised by the purchaser before January 1st, 1904.

The purchaser shall not be compelled to accept deliveries 1499 under this contract during the time it is prevented from using any paper in consequence of fire, strikes, flood, war, or causes beyond its control.

Fifth. In case the purchaser shall fail to pay any amounts due thereunder or any note or notes given in settlement within the ten days after maturity, the manufacturer may, at its option, cancel this contract, and refuse to furnish any more paper hereunder, and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract, but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure. This contract shall commence on the 29th day of January, 1903, and shall terminate on the 29th day of January, 1904.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

For immediate acceptance 1 / 19 / 1903.

GENERAL PAPER COMPANY.

W. Z. STUART, Mgr.

Accepted: January 20, 1903.

THE MINNESOTA TRIBUNE COMPANY,

By W. J. MURPHY.

"*" However, should the paper when in use prove damaged or seriously defective, — is to be set aside for disposition of the manufacturer.

1500 Hennepin Paper Company, Manufacturers of Printing and Manila Papers.

MINNEAPOLIS, MINN., Dec. 30, 1903.

Minnesota Tribune Company, Minneapolis, Minn.

GENTLEMEN: Yours of the 28th inst. received, notifying us of your desire to extend your contract with the General Paper Company expiring Jan. 29th, 1904, for six months, according to a provision in said contract. The writer, as agent for the State of Minnesota for the General Paper Company, accepts the notice and your contract with the General Paper Company is hereby extended six months from Jan. 29th, 1904, expiring July 29th, 1904.

Yours truly,

B. F. NELSON.

1501

PETITIONER'S EXHIBIT 164.

Agreement made this first day of June, 1904, between Rhinelander Paper Company, a corporation organized under the laws of the State of Wisconsin, hereinafter called the manufacturer, party of the first part, and Minnesota Tribune Company, party of the second part,

Witnesseth: That, the parties hereto, in consideration of the mutual promises and agreements of each other and of the sum of one dollar and other good and valuable considerations each to the other in hand paid, the receipt whereof is hereby acknowledged do hereby covenant and agree to and with each other, that is to say:

First. The manufacturer hereby agrees to sell and furnish to the purchaser, and the purchaser hereby agrees to purchase from the manufacturer and receive for use in newspapers published in the city of Minneapolis and for its continuous use during one year from July 1st, 1904, (5000) five thousand —, with a leeway of ten per cent. (10%) over in quantity per year of standard roll print. Shipments shall be made at the rate of 416½ tons per month. Paper shall be

run on the following basis of weight, viz.: 24 x 36 30 to 500 sheets and as near the standard weight as practicable without reference to a production basis.

Width of rolls 67-33½-34 & 50½ inches. Iron cores — Dia. or approx. wgt. of rolls large as possible. Dia. of cores 3 in.

If iron cores are required, return freight on same to be paid by the manufacturer or if retained a charge of forty cents per 1502 foot shall be accepted by the purchaser.

Kind of press Hoe quad and sextuple.

No claims for visibly damaged paper shall be entertained by the manufacturer unless the purchaser states in his railway receipt that same was received damaged and paper set aside for railway's inspection. Should the paper prove so seriously defective as to prevent its use, the manufacturer shall be advised of same at once and the paper held for disposition. All 67" rolls in excess of an equal number of 33½" and 34" rolls ordered, shall be made on basis of 24 x 36-32lb to 500 sheets.

Second. The purchaser hereby covenants and agrees to pay the manufacturer for all paper delivered under this contract as above two dollars thirteen and one-half cents per hundred pounds Tribune basement delivery actual gross weight of the rolls, including paper, wrappers and twine, but excluding the weight of the cores.

Third. The terms of payment shall be net cash, thirty days from date of invoice in Chicago or New York exchange or payable twice a month on equated dates.

This contract is subject to suspension, on notice, during the disablement of either party by reason of strikes, fires or any causes beyond the control of the manufacturer or purchaser without liability to manufacturer or purchaser.

In case the purchaser shall fail to pay any amounts due hereunder or any note or notes given in settlement at maturity or fail to make settlement as provided, the manufacturer may, at his option, cancel this contract and refuse to furnish any more paper 1503 hereunder and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract; but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure.

The first car under this contract shall be shipped as ordered.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

RHINELANDER PAPER CO.,
E. A. EDMUNDS, Mgr., Manufacturer.

THE MINNESOTA TRIBUNE COMPANY,
By W. J. MURPHY, Purchaser.

1504

PETITIONER'S EXHIBIT 165.

Agreement made this 12th day of April, 1905 between General Paper Company, a corporation organized under the laws of the State of Wisconsin, hereinafter called the manufacturer, party of the first part, and Minnesota Tribune Company, hereinafter called the purchaser, party of the second part,

Witnesseth: That, the parties hereto, in consideration of the mutual promises and agreements of each other, and of the sum of one dollar and other good and valuable considerations, each to the other in hand paid, the receipt whereof is hereby acknowledged do hereby covenant and agree to and with each other, as follows, that is to say:

First. The manufacturer hereby agrees to sell and furnish to the purchaser and the purchaser hereby agrees to purchase from the manufacturer and receive for use in the publication of the Tribune Times and its tenants newspapers published in the city of Minneapolis and for its continuous use during one year from July 1st, 1905 five thousand (500-) tons with a leeway of 5% over or under in quantity per year, of standard roll print, which shall be substantially of the same average quality as sample attached hereto. Shipments shall be at the rate of 416 $\frac{2}{3}$ tons per month. Paper shall be run on the following basis of weight, viz: 24 x 36 30 to 500 sheets and as near the ordered weight as practicable without reference to a production basis. Width of rolls 67-33 $\frac{1}{2}$ -34 & 50 $\frac{1}{2}$ inches. Iron cores—yes. Dia. of cores 3 inches. Dia. or approx. weight of roll large as possible.

1505 If iron cores are required, return freight on same to be paid by the manufacturer, or if retained a charge of forty (40) cents per foot shall be accepted by the purchaser. Kind of press Hoe quad and sextuple.

No claims for visibly damaged paper shall be entertained by the manufacturer unless the purchaser states in his railway receipt that same was received damaged and paper set aside for railway's inspection. Should the paper prove so seriously defective as to prevent its use, the manufacturer shall be advised of same at once and the paper held for disposition. All 67 inch rolls in excess of an equal number of 33 $\frac{1}{2}$ & 34 in. rolls ordered, shall be made on basis of 24 x 36-32 to 500 sheets.

Second. The purchaser hereby covenants and agrees to pay the manufacturer for all paper delivered under this contract as above two dollars and ten cents per hundred pounds (\$2.10) f. o. b. Tribune basement actual gross weight of the rolls, including paper, wrappers and twine, but excluding the weight of the cores.

Third. The terms of payment shall be net cash 30 days from date of invoice, in Chicago or New York exchange or payable twice a month on equated dates.

This contract is subject to suspension, on notice, during the dis-

ablement of either party by reason of strikes, fires, or any causes beyond the control of the manufacturer or purchaser without liability to manufacturer or purchaser.

In case the purchaser shall fail to pay any amounts due hereunder, or any note or notes given in settlement at maturity, 1506 or fail to make settlement as provided, the manufacturer may at his option cancel this contract and refuse to furnish any more paper hereunder and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract; but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure.

The first car under this contract shall be shipped as ordered.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

GENERAL PAPER CO.,

By JNO. A. DAVIS, Manufacturer, Manager.

THE MINNESOTA TRIBUNE COMPANY,

By W. J. MURPHY, Purchaser, President.

1507

PETITIONER'S EXHIBIT 166.

Agreement made this 14th day of April 1905 between General Paper Company, a corporation organized under the laws of the State of Wisconsin, hereinafter called the manufacturer, party of the first part, and the Dispatch Printing Company, hereinafter called the purchaser, party of the second part,

Witnesseth: That, the parties hereto, in consideration of the mutual promises and agreements of each other, and of the sum of one dollar and other good and valuable considerations, each to the other in hand paid, the receipt whereof is hereby acknowledged do hereby covenant and agree to and with each other as follows, that is to say:

First. The manufacturer hereby agrees to sell and furnish to the purchaser and the purchaser hereby agrees to purchase from the manufacturer and receive for use in the publications of the Dispatch Printing Co. newspaper published in the city of St. Paul, Minn. and for its continuous use during one year, from May 15th, 1905, twenty-seven hundred (2700) tons with a leeway of 5% over or under, in quantity per year, of standard roll print, which shall be substantially of the same average quality as sample attached hereto. Shipments shall be at the rate of about 225 tons per month. Paper shall be run on the following basis of weight, viz: 24 x 32 to 500 sheets and as near the ordered weight as practicable, but with a leeway to the manufacturer of two (2) pounds under or over said basis, without reference to a production basis.

Width of rolls 66½, 50½ & 33½.

Dia. or approx. w'ght of rolls —

Wood cores —

Iron cores yes

Dia. of cores 3 inches.

If iron cores are required, return freight on same to be paid by the manufacturer, or if retained a charge of forty (40) cents 1508 per foot shall be accepted by the purchaser.

Wood cores to be returned at option of manufacturer.

Kind of press Goss.

No claims for visibly damaged paper shall be entertained by the manufacturer unless the purchaser states in his railway receipt that same was received damaged and paper set aside for railway's inspection. Should the paper prove so seriously defective as to prevent its use the manufacturer shall be advised of same at once and the paper held for disposition.

In case the publisher should publish a Sunday paper, it is intended and agreed that this contract shall cover the supply of paper of said issue.

Second. The purchaser hereby covenants and agrees to pay the manufacturer for all paper delivered under this contract as above two dollars and ten cents (\$2.10) per hundred pounds f. o. b. St. Paul actual gross weight of the rolls, including paper, wrappers and twine, but excluding the weight of the cores.

Third. The terms of payment shall be net cash, 30 days from date of invoice, in Chicago or New York exchange, or on the 15th of the month for all paper shipped the previous month.

This contract is subject to suspension, on notice, during the disablement of either party by reason of strikes, floods, fires, or any causes beyond the control of the manufacturer or purchaser without liability to manufacturer or purchaser.

In case the purchaser shall fail to pay any amounts due hereunder, or any note or notes given in settlement at maturity, or fail to make settlement as provided, the manufacturer may, at his option, 1509 cancel this contract and refuse to furnish any more paper hereunder and declare the obligations of the purchaser hereunder due forthwith, notwithstanding the terms of this contract; but the purchaser shall remain liable to the manufacturer for all loss and damage sustained by reason of such failure.

The first car under this contract shall be shipped on or about the 15th day of May, 1905, and on all subsequent shipments reasonable notice to ship shall be given by the purchaser.

This contract is executed in duplicate.

In witness whereof, the parties hereto have hereunto set their hands and seals the day and year first above written.

GENERAL PAPER COMPANY.
JNO. A. DAVIS, Manager.

THE DISPATCH PRINTING CO.,
By W. J. DRISCOLL, Business Manager.

1510

PETITIONER'S EXHIBIT 167.

General Paper Company, Rooms 1012-1020, Merchants' Loan & Trust Bldg., 135 Adams Street.

CHICAGO, ILL., April 14, 1905.

Mr. George Thompson, St. Paul, Minn.

DEAR SIR: In connection with the contract executed this day between this company and the Dispatch Printing Company, it is agreed that we hand you personally, a rebate of 3 cents (three cents) per hundred pounds on all deliveries made under said contract, such payments to be made quarterly, and to be based on actual consumption as shown by their settlements.

GENERAL PAPER COMPANY.
JNO. A. DAVIS, Manager.

J. A. D.—FDM.

Accepted:

GEORGE THOMPSON.

1511 And it was admitted at said hearing by counsel for the United States of America and for said witness, that the said Benjamin F. Nelson is the holder and owner of 22½ shares of the capital stock of the General Paper Company, of the par value of one hundred dollars per share, and that he holds the same in trust for, and for the use of, said Hennepin Paper Company, and that he so held the same at the time said suit of The United States of America vs. The General Paper Company was brought, and has ever since so held the same.

And it was further admitted that the said Benjamin F. Nelson was, at the time said suit was brought and at the time he was served with said writ of *subpoena duces tecum*, and ever since has been the legal and beneficial holder and owner of 490 shares of the capital stock of the Hennepin Paper Company of the par value of one hundred dollars each.

And it was further admitted that at the time that said suit of The United States of America, vs. The General Paper Company was brought, the said Anselm C. Bossard was, and ever since has been, the holder and owner of 30 shares of the capital stock of the General Paper Company, and that he holds the same in trust for the use and benefit of the Itasca Paper Company.

And it was further admitted that the said Anselm C. Bossard, at the time said suit was brought, was, and ever since has been
1512 and is, the legal and beneficial holder and owner of 400 shares of the capital stock of the Itasca Paper Company, of the par value of one hundred dollars per share.

And it was further admitted that at the time said suit of the said
18—490

United States of America, vs. said General Paper Company was brought, the said Clarence I. McNair was, and ever since has been and is the holder and owner of 60 shares of the capital stock of the General Paper Company and that he holds and owns the same in trust for the use of the Northwest Paper Company.

And it was further admitted that said Clarence I. McNair was at the time said suit was brought, and ever since has been and is, the legal and beneficial owner of 400 shares of the capital stock of the Northwest Paper Company, of the par value of one hundred dollars.

And it was further admitted that, at the time said writ of *subpoena duces tecum* was served upon the said Benjamin F. Nelson, and at the time he was called upon to testify thereunder, he was and still is, a director of the General Paper Company, and a director and the president of the Hennepin Paper Company, and that at the time said writ of *subpoena duces tecum* was issued and served upon the said Anselm C. Bossrad, and at the time he was called to testify thereunder, he was and still is, a director of the General Paper Company, and a director and the treasurer of the Itasca Paper Company, and that at the time that said writ of *subpoena duces tecum* was issued and served upon said Clarence I. McNair, and at the 1513 time that he was called upon to testify thereunder, he was and still is a director of the General Paper Company, and a director and the general manager of the Northwest Paper Company.

Which was all the evidence heard and taken upon said petition to show cause, filed as afresaid, on the 25th day of September, 1905.

And there upon, afterwards, to wit, on the 7th day of October, 1905, the said circuit court entered an order requiring the said Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair to answer the questions propounded to them, and which they had therefore refused to answer, and to produce the books and papers mentioned and described in said several writs of *subpoena duces tecum*, a copy of which said order is attached to the petition in this proceeding and is, by the consent of counsel, omitted from this bill of exceptions and made a part thereof by reference to said copy so attached.

And afterward, to wit, on the said 12th day of October, 1905, the petition in this proceeding filed by the United States of America, and asking that the said witnesses, Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair, be adjudged in contempt of court, was filed, and answers thereto by said several witnesses and each thereof, was also filed, and this proceeding coming on 1514 for further hearing, all of the testimony heard upon said petition to show cause, and herein before set forth, was by consent of counsel, treated and considered as evidence upon the

hearing of this proceeding and was so treated and considered by the court.

In addition thereto there was offered in evidence the report of said Robert S. Taylor, special examiner, showing the refusal of said witness to obey said order of October 7, 1905, a copy of which said report is attached to the petition in this proceeding and by consent of counsel is omitted from this bill of exceptions and made a part thereof by reference to said copy.

And there was also offered and received in evidence a transcript of the proceedings had and taken before the said Robert S. Taylor, special examiner, on the 12th day of October 1905, the same being in the words and figures following, to-wit:

1515 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
 VS.
 GENERAL PAPER COMPANY ET AL. }

POST OFFICE BUILDING,
 ST. PAUL MINN., Oct. 12, 1905.

Pursuant to the order of the court made herein on October 7, 1905, the parties by their counsel, Mr. Robert E. Olds on behalf of the complainant and Mr. William Brace and Mr. Charles E. Monroe (of Winkler, Flanders, Smith, Bottom and Fawsett) appeared before the special examiner in the above-entitled cause at the above-noted place and time. Thereupon the following proceedings we had:

B. F. NELSON being recalled as a witness by the complainant, testified as follows:

Examined by Mr. OLDS:

Q. Mr. Nelson, on the 24th day of July last you appeared before the examiner and obedience to the *subpoena duces tecum* in
 1516 this case and your examination was undertaken by counsel for the petitioner. At that time you were asked certain questions and certain requests were made upon you for the production of evidence, which questions you refused to answer and which requests you refused to comply with, and thereupon your examination was suspended in order that an application might be made to the court for an order directing you to answer and comply. Subsequently you appeared before the United States circuit court for this district in obedience to the order to show cause directing you to appear and show cause why you should not be required to answer and comply, and upon the hearing of that order to show cause the court made and entered its order on the 7th day of this month directing

you to appear today, at this time and place, before the examiner and answer and comply with all of the questions which you had hitherto been asked and which you had refused to answer and all the requests to produce evidence which had been made upon you and which you had refused to answer. Now I ask you, Mr. Nelson, whether you are ready to comply with that order?

Mr. MONROE: I appear on behalf of Mr. Nelson, and state that the witness, on the advice of counsel, declines, as he did before, to answer the questions and to produce the books and papers for the purposes for which they were asked, for the reasons which he has already stated in his answer to the order to show cause which was heard before Judge Van Devanter last week.

A. I decline to answer.

1517 Mr. BRACE: Or to produce the books.

WITNESS: Yes, I decline to answer or to produce the books.

Q. Do you refuse to answer each and every of the questions which you refused to answer on your former examination on the 24th day of July last?

A. Yes.

Q. And in this connection I show you your testimony on file in this court in order that you may have an opportunity to examine it if you wish.

Mr. MONROE: We will make a stipulation that the repeating of each question and request for the production of the books and papers is waived, if you desire. I don't think the witness wants to read that mass of stuff.

Mr. OLDS: I just want to give him the opportunity.

WITNESS: I would prefer to take it for granted that those are all the questions asked me and I refuse, rather than to read it.

Q. Then, Mr. Nelson, as I understand it, you refuse to answer each and every of the questions which you refused to answer before——

A. Yes sir.

Q. —and you also refuse to comply with each and every of the requests to produce the evidence which you refused to comply with on your former examination?

A. Yes sir.

Mr. OLDS: And the repeating of each individual question and request is waived?

Mr. BRACE: Yes sir.

1518 Mr. OLDS: I ask that the examination of the witness be suspended until further application is made to the court for the enforcement of the order.

The witness withdraws.

A. C. BOSSARD, being recalled as a witness by the complainant, testified as follows:

Examined by Mr. OLDS:

Q. Mr. Bossard, I make to you the same preliminary statement which I made, in your hearing, to Mr. Nelson, and now ask whether you are ready to comply with the order which was made and entered on the 7th day of October, 1905, directing you to answer and comply with questions and requests which were put to you on your former examination?

Mr. MONROE: I repeat the statement which I made a moment ago on behalf of Mr. Nelson, that the witness, on the advice of counsel and for the reasons which he has stated in his answer on file in this court to the order to show cause, heard before Judge Van Devanter last week, refuses, as he refused before, to answer the questions or produce the books and papers called for for the purpose for which they were called.

A. On the advice of counsel I refuse to answer.

Q. Do you refuse to answer each and every of the questions and to comply with each and every request to produce evidence
1519 which you refused to answer and comply with upon your former examination?

A. I do.

Q. And which you were directed by this order to answer and comply with?

A. Yes sir.

Mr. BRACE: We will make the same stipulation—waive the repeating of each separate question and each separate request for the production of evidence.

Mr. OLDS: I ask that the examination of the witness be suspended until further application is made to the court for the enforcement of the order.

The witness withdraws.

CLARENCE I. MCNAIR, being recalled as a witness by the complainant, testified as follows:

By Mr. OLDS:

Q. I make the same preliminary statement that was made to Mr. Nelson in your hearing a moment ago.

A. I heard it.

Q. And I now ask you whether you are ready to comply with the order made and entered on October 7, 1905, directing you to answer certain questions and comply with certain requests to produce evidence?

Mr. MONROE: I make the statement on behalf of Mr. McNair that on the advice of counsel and for the reasons stated in his answer to

the order to show cause, which was heard before Judge Van
1520 Devanter last week, he refuses still to answer the questions or
to produce the books and papers for the purpose for which
they are called for.

A. Upon the advice of counsel I decline to answer the questions.

Q. Do you refuse to answer each and every of the questions which
you refused to answer upon your former examination on July 24,
1905?

A. I do, upon advice of counsel.

Q. And do you decline to comply with each and every of the re-
quests to produce evidence which were made upon you at the former
examination, July 24, 1905 and which you then refused to comply
with?

A. I do upon the advice of counsel.

Counsel for defendants waived the repeating of each separate
question and each separate request for the production of evidence.
The further examination of the witness was suspended.

(Recess until 2 o'clock.)

1521 And upon the hearing of said motion to show cause said
court delivered the following opinion, to-wit:

United States Circuit Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Complainant, }
vs. }
GENERAL PAPER COMPANY ET AL., Defendants. }

At the conclusion of the argument by counsel for respective
parties on the order to show cause why certain witnesses should not
be compelled to answer questions and produce books and papers,
etc., before the special examiner, on the afternoon of Tuesday,
October 3, 1905, the court (Van Devanter, circuit judge,) delivered
the following oral opinion:

I should be very glad if my other engagements permitted it to
make a more extended examination of the authorities which have
been called to my attention and also to express at some length and
with more care than can now be taken my views upon the questions
presented and the reason which leads me to them. That, however,
is not a matter which it will be convenient to do.

I think we may begin, as far as the main question is concerned,
with the case of Counselman v. Hitchcock, 142 U. S. 547, where
section 860 of the Revised Statutes, which is substance provided
that the particular testimony given by the witness could not be used
against him in any criminal proceeding, or for the enforcement of a
penalty of forfeiture, was condemned upon the ground that the im-

munity which it afforded was not broad enough, and where in the course of the opinion it is said:

1522 "This, of course, protected him against the use of his testimony against him or his property in any prosecution against him or his property, in any criminal proceeding, in a court of the United States. But it had only that effect. It could not, and would not, prevent the use of his testimony to search out other testimony to be used in evidence against him or his property, in a criminal proceeding in such court. It could not prevent the obtaining and the use of witnesses and evidence which would be attributable directly to the testimony he might give under compulsion, and on which he might be convicted, when otherwise, and if he had refused to answer, he could not possibly have been convicted."

After referring to many State decisions upon immunity statutes, varying in language, some of which granted immunity from any prosecution growing out of the transaction in respect of which the testimony was given, and others of which granted immunity only from the use of the particular testimony, it is further said by the court:

"It is a reasonable construction, we think, of the constitutional provision, that the witness is protected 'from being compelled to disclose the circumstances of his offence, the sources from which, or the means by which, evidence of its commission, or of his connection with it, may be obtained, or made effectual for his connection, without using his answers as direct admissions against him.'"

And again:

"We are clearly of opinion that no statute which leaves the party or witness subject to prosecution after he answers the criminating question put to him, can have the effect of supplanting the privilege conferred by the Constitution of the United States."

1523 Thus the court, in a case which shows very careful consideration of the question presented and extensive examination of the authorities, held that a statute does not avoid the privilege of silence under the constitutional provision unless it gives the witness immunity from prosecution for any offence, and from the enforcement of any penalty or forfeiture, criminal in its nature, on account of the transaction in respect of which he testified.

In the earlier part of the argument I did not recall that the court had gone so far in that matter, and, recalling some State decisions with which I was at one time familiar, I was inclined to the view that the purpose of the constitutional inhibition was accomplished by an immunity statute providing that the evidence given could not be used against the witness; but this decision shows, on principle and on authority, that the rule is very much broader than that.

And so we come to the case of *Brown v. Walker*, 161 U. S. 591, in which was involved an immunity statute identical with that now under consideration, in that it granted immunity from prosecution for any offense and from the enforcement of any penalty or forfeiture on account of the transaction in respect of which the testimony was

given. The Counselman case was cited, and some reliance was placed upon some of the statements therein, but the court reached the conclusion that the statute gave adequate protection to the witness, and therefore that his testimony could be enforced. It was said of the statute:

"It can only be said in general that the clause should be construed, as it was doubtless designed, to effect a practical and beneficial purpose—not necessarily to protect witnesses against every possible detriment which might happen to them from their testimony, nor to unduly impede, hinder or obstruct the administration of criminal justice. That the statute should be upheld, if it can be construed in harmony with the fundamental law, will be admitted."

1524 Thus they speak of that statute as belonging to a class, entitled to what is sometimes termed a broad construction. It is described as affording to the witness all the protection that the Constitution was designed to give him and as, in addition to that, being enacted for the beneficial purpose of protecting the public against the vice which inhered in those transactions which the principal statute was designed to subject to investigation and ultimately to suppress. In the course of the opinion it is recognized that compulsory disclosure on the part of the witness would in some instances tend to injure his name, to bring him into public disgrace, and to effect his reputation for honesty, but it is said that the constitutional provision was not designed to protect him in respect of these matters, but only to protect him when his testimony would tend to subject him to prosecution based upon or growing out of the transaction in respect of which he testifies, and that while the matters I have just mentioned would be of some detriment to him that is a detriment which he must suffer for the public good; in other words (although not so expressed), he as a citizen owes a duty to the general public which must be performed even though it be at some inconvenience and at some personal sacrifice.

Now, it is said here that these witnesses, if compelled to testify, although granted immunity from any prosecution and from the enforcement of any penalty or forfeiture, will be injured financially and the business which they had built up will be injuriously affected.

I think it may be assumed that the giving of the testimony if it be of the character the Government counsel thinks it will be, will tend to hurt them in their business; but that is not of as great value, is in no sense more sacred, than their names and reputations, and in that connection I think it may well be observed that

1525 the loss which they will suffer will not be that their property is taken from them, or that they are subjected to a forfeiture or penalty, but will rest entirely in that depreciation which comes from a judicial ascertainment that the property is invested or employed in an unlawful or wrongful business. Immediately that becomes known and understood, the property invested in that business must,

if it be not easily convertible, depreciated in value; and it is in that sense only that the loss may come to the witnesses from the giving of the testimony here sought to be elicited from them.

The purpose of this suit is to put an end to an act which, if it be of the character charged, is a public wrong and has been so from its inception. One does not acquire any property right by conceiving the commission of a wrong, by entering upon its execution or by continuing in it for any length of time. The latter is matter of aggravation rather than matter which excuses, or gives a vested right in, the thing done. And when the Government seeks to interpose by the writ of injunction to stop a wrong, that is not, as it seems to me the enforcing of a penalty or forfeiture; it is not taking away anything to which the party is entitled, and I cannot conceive of a penalty or of a forfeiture that does not involve the taking away of something to the enjoyment of which the party is otherwise lawfully entitled.

Now, it is also said—and that argument addressed itself to me with great force—that intrastate and interstate transactions are so commingled in carrying into effect a combination such as is here alleged, that the disclosure of that which is interstate will necessarily be accompanied by the disclosure of that which is intrastate; that it happens in this instance that if there be such a combination, it is unlawful not only in respect of that which is interstate, but also in respect of that which is intrastate, and that therefore
1526 the disclosure would subject the witnesses to prosecution both under the Federal statute and under the State statute. And the contention, and forcefully put, is that it does not lie with the Federal Government to grant immunity to violators of State laws, as it can only act in its own sphere, and that therefore its power to grant immunity is limited to offences against its own laws. But that question was presented in the case of *Brown v. Walker*, 161, U. S. 591, and while the arguments of counsel in that case are not set forth or noted in the report, it sufficiently appears from the opinion that it was contended that the statute, which was like the one before me, granted immunity from prosecution by the Federal Government, but not from prosecution in the State courts. And when the court says that, of course it means a prosecution in the State courts for an offence against the laws of the State and not for an offence against the laws of the United States. It was not necessary to state that so fully because it is obvious. The court, speaking to that question says:

“It is argued in this connection that, while the witness is granted immunity from prosecution by the Federal Government, he does not obtain such immunity against prosecution in the State courts. We are unable to appreciate the force of this suggestion. It is true that the Constitution does not operate upon a witness testifying in the State courts, since we have held that the first eight amendments are limitations only upon the powers of Congress and the Federal courts, and are not applicable to the several States, except so far as the Fourteenth Amendment may have made them applicable.

"There is no such restriction, however, upon the applicability of Federal statutes. The sixth article of the Constitution declares that 'this Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be
 1527 the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution of laws of any State to the contrary notwithstanding.'

* * * * *

"The act in question contains no suggestion that it is to be applied only to the Federal courts. It declares broadly that 'no person shall be excused from attending and testifying * * * before the Interstate Commerce Commission * * * on the ground * * * that the testimony * * * required of him may tend to criminate him,' etc. 'But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify,' etc. It is not that he shall not be prosecuted for or on account of any *crime* concerning which he may testify, which might possibly be urged to apply only to crimes under the Federal law and not to crimes such as the passing of counterfeit money, etc., which are also cognizable under the State laws; but the immunity extends to any *transaction, matter or thing* concerning which he may testify, which clearly indicates that the immunity is intended to be general, and to be applicable whenever and in whatever court such prosecution may be had."

It seems to me that case is decisive of that feature of the present case. And while I paid great attention to the argument of counsel for these witnesses and was very much impressed with it, I realize that it is true that the purpose of the immunity statute would not be accomplished in more than a very small proportion of the instances in which it was intended to be applicable if it were true that the immunity would only apply to prosecutions by the Federal Government. It would be in extremely exceptional instances that the investigation of these interstate commerce transactions could be conducted along lines where the
 1528 disclosures would not be in respect of intrastate matters as well as those which are interstate, and it may be therefore that it was in the mind of the court that in this situation the power to regulate interstate commerce carries with it the power to indirectly or even directly, affect matters ordinarily of concern only to the States when they are so connected with interstate commerce that the power of Congress over the latter can not be exercised without affecting them. But however this may be, it is sufficient for this court to know that the question was considered and decided in a case seemingly requiring that it be considered and decided. And that it was considered and intended to be decided is also shown by the dissenting opinion of Mr. Justice Shiras.

I think the other point, that the particular immunity statute here under consideration is to be strictly construed, because it is a proviso or an exception, is not well taken. It is not attached to or a part of some general statute which is intended to be limited by it. In that case the general provision would be the dominating one, save as the proviso or exception clearly indicated the contrary. But we find this immunity proviso is introduced, as is often done in the legislation of Congress, by the word "provided," which is frequently used merely as a conjunctive and not as importing an exception at all. We find that it is introduced in an act which contemplates the prosecution by the officers of the Department of Justice of suits such as this for violations of the so-called anti-trust act and of two other statutes which are mentioned. So it seems to me that, instead of the proviso showing that it was intended to be restrictive, it shows that it was intended to be in furtherance of that which goes before it, and that, therefore, as is said or held in the case of *Browk v. Walker*, it should receive such a construction as is usually given to a beneficial statute—one which will be in keeping with its spirit and purpose.

As to the contention that the compulsory production of the documents named in the subpoena will amount to unreasonable search or seizure, I think it is sufficient to refer to the case of *Interstate Commerce Commission v. Baird*, 194 U. S., 25, where it is said :

"As we have seen, the statute protects the witness from such use of the testimony given as will result in his punishment for crimes or the forfeiture of his estate. Testimony given under such circumstances presents scarcely a suggestion of an unreasonable search or seizure."

This case is peculiar—not wholly so, because others somewhat similar have preceded it—in that there is here asserted a double privilege, first, that of the witnesses, and second, that of the corporate defendants, of which the witnesses are officers, if a corporation may be said to have such a privilege.

What has been said disposes of the claimed privilege of the witnesses save that I should mention the contention that because the information of which they are possessed was derived in the course of their employment by the corporate defendants, and that therefore this knowledge has such peculiar relation to the defendants that they have a right to object to its disclosure even though the witnesses were not objecting. That contention has not seemed to me well taken. It would make a novel addition to the list of what are known as privileged communications. I appreciate that corporations do not have a natural voice, that they are without the natural sense and faculties of men; that all their business is transacted by agents and servants, and that in that respect they differ from individuals; but it does not seem to me that this entitles them to close the lips of those who are employed by them, whether called to testify in suits in which others are parties or in civil or criminal suits in which the

corporations are parties. In the modern methods of doing business this difference between corporations and individuals is only one of degree. Now-adays where an individual or firm transacts business in two, three or a dozen cities, separated by slight or great distances, the management of the business is largely confided to agents—in some instances almost exclusively so; and if it were the law that the agent of a corporation could not, for the reason suggested, speak in respect of knowledge or information obtained by him in the course of his employments without first having the consent of his employer, the principal underlying that rule would make it equally applicable to a great portion of the business of individuals.

It seems to me that the public good requires that the rule ordinarily applicable to individuals shall be applied to corporations, and that no one should be prevented or excused from testifying as a witness in respect of matters within his personal knowledge merely because that which he knows came to him in the course of his employment by a corporation and its disclosures may affect the corporation. It is not conceivable that in this respect corporations are on a higher plane than individuals.

There remains the further question: whether the books and papers sought to be used as instruments of evidence can be used without the consent of the corporations whose books and papers they are. It may be assumed at the outset that if they contain any evidence of value to the Government in establishing the charge here made, that evidence is of a character which would tend to subject these corporations to penalties of a criminal nature. So the question arises whether, in this indirect way, a corporation may be made to

testify against itself or to furnish evidence tending to incriminate it. Of course it is understood that a corporation cannot testify as can a natural person, but when it is made to produce its records and papers showing its corporate and business transactions it is made to speak in a very effectual sense and to give evidence against itself. It seems to me that what is here sought is practically that of making the corporation testify under circumstances amounting to self-incrimination, and my conclusion proceeds upon the idea that in respect of the production of the books and papers the officers are not to be distinguished from the corporation, but are in real effect the corporation.

Counsel differ as to whether the constitutional provision in respect of compelling one to testify against himself has application to a corporation, and that is a mooted question not only in this case, but generally. Its present solution does not seem to be necessary, although I am inclined to the view that the constitutional provision, of broadly construed as it should be, includes corporations. If it does, they are also included in the immunity statute. The language of the latter is quite the equivalent of that of the former in this respect. And so, if a corporation can be said to testify, and if a compulsory production of its books and papers, such as is here sought, amounts to compelling it to testify against itself,

as I think it does, then by giving such testimony it obtains like immunity as if it were an individual.

But if it be true, as has been argued, that a corporation cannot testify, that it cannot be a witness, then it is not within the constitutional provision; and no question of deserving serious consideration in respect of the production of the books and papers is here presented, save such as apply to the individual witnesses and have already been disposed of.

1532 The rule is well recognized that in the absence of some restrictive constitutional provision the production of the books and records of a corporation pertinent to the issue in any suit or judicial proceeding may be enforced by legal process addressed to the officers of the corporation. Reference was made to the rule in equity that discovery cannot be had through the medium of a bill in equity, where that which it is sought to discover will tend to subject the defendant to a penalty or forfeiture, or anything in the nature of either. This however is not a bill of discovery; but apart from that I think the immunity statute makes this rule of no avail in so far as the evidence sought to be elicited may tend to expose the defendants to anything in the nature of a criminal prosecution. The rule however includes something more than a penalty or forfeiture imposed by way of punishment for a criminal offence. It applies to forfeitures of a civil nature growing out of contract provisions. But I see nothing which makes it at all probable that the information to be elicited would result in exposing the defendant to a penalty or forfeiture other than of a criminal nature. The relief here sought, as I have said before, is not in the nature of a penalty or forfeiture and it is manifest that it is not the purpose of the suit to lay the basis for the enforcement of any penalty for forfeiture.

Upon the whole my view is—and I express it with deference to the clear and forceful argument to the contrary by counsel by the defendants and the witnesses—that the witnesses should have obeyed the subpoena, that they should have answered the questions directed to their personal knowledge, and that they should have produced the books and papers as show the transactions named in the subpoena.

1533 Considering the charge made in the bill, the issue raised by the answers, the matters that have been conceded in respect of the divison of the stock of the General Paper Company and the method in which it has been controlled, it seems to me that what is shown in the books and papers respecting the transactions described in this subpoena are relevant to the issue and that they will tend to illustrate the truth in respect to the two opposing contentions upon the question of fact presented. It is obvious that these companies have kept books, that these books show the amount of business that they have been doing, where the product of their mills has been shipped and sold, whether disposed of only through sales made by the General Paper Company as a sales agent; whether

there has been an equalization of prices; and whether the parties have in their practical operations put that construction upon their relations which made them amount to a combination in restraint of interstate trade. These records were made at a time when there was no suit, when the legality of the business was perhaps not questioned and when the records would speak in a very credible way in respect of the nature of the transaction.

An order will be entered granting the prayer of the motion.

(Endorsed :) Decision on order to show cause. Filed October 6th, 1905. Henry D. Lang, clerk.

1534 And upon the motion for an appeal from said order of October 7th 1905, said court delivered the following opinion, to wit:

UNITED STATES OF AMERICA :

U. S. Circuit Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA
vs.
GENERAL PAPER COMPANY ET AL. }

On Saturday, October 7, 1905, at the conclusion of the arguments of counsel for respective parties on the prayer of certain witnesses and some of the defendants for the allowance of an appeal from the order of the court entered in this cause in accordance with the oral opinion rendered October 3, 1905, on the order to show cause why these witnesses should not answer certain questions propounded to them and produce certain documents named in *subpoenas duces tecum*, the court (Van Devanter, circuit judge,) delivered the following oral opinion:

To begin with, we have a suit in equity in which the Government upon one side and several corporations upon the other are parties. By the pleadings an issue is made which renders the production of testimony or evidence in support of the Government's case essential, and also makes it appropriate that the defendants shall introduce, if the Government makes a *prima facie* case, whatever of testimony or evidence they have to illustrate their position upon that issue. The power of a court to compel the giving of testimony by witnesses or their production of books, documents or other written evidence, is essential to the exercise of jurisdiction in such a case at all; and there goes with it dull authority to resort to appropriate measures to make this power effective where no right or privilege of the witness is violated. No special statute to this end is required because such power is inherent in the general grant of jurisdiction.

1535 If one of these witnesses were present in court and testifying and were to claim the privilege of silence, because that

which is sought to be elicited from him was of an incriminating nature or within the rules relating to privileged communications, the question whether or not the privilege claimed exists would be presented for the court's decision. In ordinary course the parties to the suit, through their counsel, would be heard on that question and there would follow a ruling either excusing the witness from giving the testimony sought to be elicited from him or directing that it be given; and if the witness were directed to answer the question or questions put to him and he then refused the orderly course would be to take such steps as were appropriate to the punishment of the contempt and to the enforcement of the court's ruling.

Up to that time the proceedings would more appropriately be part of the principal suit, although they would condition the exercise of the power to institute or resort to contempt proceedings and might in that sense become part of such proceedings. But at the moment when it was proposed to subject the witness to punishment or to compel his obedience to the court's ruling and thus to visit upon him consequences personal to himself, there would arise therefrom a right on his part which would be distinguishable from any right of the parties to the principal suit and which could only be adjudicated in a proceeding to which he was a party. He would then be entitled from his individual standpoint to be heard to say, through himself or counsel, that he was not amendable to punishment; that that which he had done was in the exercise of a lawful right; and the proceeding, whether formal or informal, whereby the court would consider and pass upon his rights as distinguished from those of the parties in the principal suit, would constitute a new case to which he would be a party.

1536 The ruling of the court in the principal suit which would necessarily precede any contempt on the part of the witness, would not be a final decision and would not be in a cause to which the witness was a party. If it were, and the witness or either of the parties could, without more, have it received in an appellate court the proceedings in appellate courts would become clogged, cases would be taken there by piecemeal and the proceedings in trial courts would be unreasonably delayed. In the very nature of things, the ruling in the original or principal suit is only interlocutory, and, so far as any separable right of the witness is concerned, there is and can be no final judgment of which he can complain (where as here he is not a party to the original or principal suit) which does not impose upon him some penalty or punishment. What has been said in respect of a witness called upon to give personal testimony is equally applicable to one who is called upon to produce written evidence in his possession.

The fact that these proceedings grow out of the taking of evidence before an examiner does not vary the result. There was, in the first place, the process of the court directing these witnesses to appear before the examiner to testify and to produce certain described written proofs in their possession. It is true that they were not hear-

before that subpoena was issued. I doubt whether it was ever insisted that a witness had a right to be heard before a subpoena was issued calling upon him to attend and testify or to attend and produce written proofs in his possession. But while such process was issued without prior notice, it was none the less the process of the court and the witnesses were required to obey it or not at their peril. They have a right to be heard before any judgment shall be pronounced against them, but they have no right to be heard in respect of whether or not their action will affect favorably or unfavorably the parties to the suit. The rights of such a witness are adequately safeguarded, if before any personal judgment is pronounced against him he is heard in his own right and in his own case.

1537 Here, while it has been said that these witnesses have refused obedience to the process, it has not been asked that they be adjudged guilty of contempt, but only that the court should in the original and principal suit consider the propriety of the calls made upon the witnesses in order that the parties and the witnesses may be in the same attitude as if the evidence were being taken in open court. Such a hearing has been had. The conclusion was reached that the Government was entitled to the evidence named. It would have been the same if the Government were not the complainant; and what was done was only in further assurance of the right conferred by the issuance of the subpoenas.

That proceeding was essentially one instituted in the right of the Government as a party litigant and not as a sovereign seeking to enforce the dignity or authority of one of its courts; and yet it may become part of a proceeding in which contempt may or may not be adjudged, and if it does it will then be an attribute or part of both cases.

I cannot at all bring myself to the conclusion that the order which has been entered is a final order or decision either in respect of the defendants in the principal suit or in respect of the witnesses. It seems to me that it is a mere preliminary step toward possible proceedings in which the witnesses will be parties and in which a judgment adverse to them may or may not be rendered.

The cases of *United States v. Brimson*, and *Interstate Commerce Commission v. Baird*, are cited, but to my mind they are readily distinguishable from the case that we have here. First, the witnesses there were not asked to testify before a judicial tribunal which had the inherent power to compel the giving of the testimony. It was a non-judicial tribunal that had not power at all to enforce respect for or obedience to its process. A statute was enacted

1538 by Congress clothing a judicial tribunal with the power to entertain and conduct to a final conclusion a proceeding compelling witnesses to give testimony before that non-judicial tribunal. The power conferred by that statute was not a mere incident to the exercise of a power with which the court was otherwise clothed in a particular case, but it was the whole thing.

The two cases are further distinguishable in that in each case the

petition or bill of the Government seeking that the witnesses be directed to testify before this non-judicial tribunal were held insufficient and were dismissed. That decision entirely terminated the proceeding in the court of first instance. It was final. The question arose in those two cases whether there was a right of appeal from the order or judgment there entered, and all that the court could say was whether or not the Government had met with an adverse final judgment. It had no occasion to consider whether or not a judgment directing the witnesses to testify would in of itself also have been final. Whatever may have been said upon that question, while entitled to the greatest respect, is not conclusive upon that court nor upon any other. It is true that the suggestion or the expression is found in at least one of these cases that had there been such a judgment the witnesses would have had a right to appeal. Let that be granted. But it does not follow from what was said that the court meant that upon the mere entry of the order directing the giving of the testimony there would have been a right to an appeal. That, however, may be the case in an independent proceeding such as was there under consideration, the whole purpose of which was to aid an investigation being carried on before another tribunal and not to elicit testimony which would affect the judgment of the court in the case in which the order was made.

1539 It seems to me, therefore, that what was said and done in those cases does not in any view which may be taken of them, apply to the present case. So far as it is concerned, I am of opinion that the mere direction of the court to the witnesses to answer the question put to them and to produce the written evidence in their possession is not a final decision; that it more appropriately is an interlocutory ruling or order in the principal suit, and that if the witnesses refuse to comply with it and the court then exercises its authority either to punish them or to coerce them into compliance that will give rise to another case or cases to which the witnesses will be parties on the one hand and the Government as a sovereign vindicating the dignity and authority of one of its courts will be a party on the other hand. I have no doubt that a judgment adverse to the witnesses in that proceeding or case will be a final decision and will be subject to review by writ of error, but not by appeal. My opinion is also that the parties to the principal suit cannot appeal or obtain a writ of error from that decision.

The prayer for the allowance of an appeal is denied.

(Endorsed :) Decision on application for allowance of appeal etc. Filed October 7th, 1905. Henry D. Lang, clerk. By Louise B. Trott, deputy.

1540 Which was all the evidence heard, offered or received upon said petition to show cause and petition to adjudge said witnesses in contempt in these proceedings.

And thereupon the court adjudged said witnesses in contempt and filed them one hundred dollars each, and committed them to jail until said fines should be paid, and until they should comply with said order to testify as aforesaid, to which action of the court said witnesses, each and severally, duly excepted.

And forasmuch as the foregoing matters and things do not fully appear of record, the said Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair, jointly and severally present to the court this, their joint and several bill of exceptions, and pray the court to sign, seal the same and make the same a part of the record in this proceeding.

Which is accordingly done this 13th day of October 1905.

WILLIS VAN DEVANTER, [SEAL.]
Circuit Judge.

(Endorsed :) Bill of exceptions. Entered 813. C. E. Filed October 13th, 1905. Henry D. Lang, clerk.

1541 And on the 2nd, 3rd, 7th, 12th and 13th days of October 1905, the following proceedings of the court were entered of record in said cause, viz:

1542 United States Circuit Court for the District of Minnesota,
Third Division.

Term Minutes June Term, A. D. 1905, Oct. 2nd, 1905.

MONDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. Willis Van Devanter, circuit judge, Henry D. Lang, clerk.

UNITED STATES OF AMERICA,

VS.

GENERAL PAPER COMPANY, THE ITASCA PAPER Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre and Paper Company, Rhinelander Paper Company.

C. Equity. No. 813.

The order to show cause heretofore issued that the witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, show cause why they and each of them should not make full and proper answer to each of the questions referred to in said petition and more particularly in the schedules thereunto annexed, and also fully comply with each and every of the requests mentioned in said petition and more particularly set forth in the schedules thereto annexed, and also produce for the purpose of their said examination, for inspection by counsel for the petitioner and for the purpose of being offered in evidence in said cause, the books and papers referred to in the said petition and schedule; and abide such other and further order as this court may make, returnable at the United States circuit court room in the city of St. Paul, State of Minnesota, on the 25th day of September, 1905, at ten o'clock in the forenoon of said day and on that day by order duly made and entered continued

1543

for hearing until the 29th day of September 1905 at ten o'clock in the forenoon of said day, and on that day by order duly made and entered continued by hearing until the 29th day of September, 1905 at ten o'clock in the forenoon at the same place, and on that day again by order duly made and entered continued for hearing to this time and place, and now coming on to be heard.

Messrs. F. B. Kellogg, & Robert E. Olds appear on behalf of the complainant and Messrs. J. G. Flanders and Wm. Brace, appear on behalf of the defendants.

Mr. J. G. Flanders moves the court for a continuance of the hearing upon the order to show cause until after the decision by the Supreme Court of the United States of certain cases of a similar nature there pending, to which the complainants object, and after hearing the arguments and statements of the solicitors for the respective parties thereon and being fully advised in the premises, upon due consideration, the court denies said motion.

Upon the agreement of the solicitors for the respective parties hereto, it is ordered that the defendants may interpose and file an answer to the complainant's petition and order to show cause during this hearing and that the same may be considered as now filed.

Mr. Frank B. Kellogg thereupon opens, states and argues the cause of the complainant upon said order to show cause.

And here the court takes a recess until two o'clock p. m.

The court resumes proceedings at two o'clock p. m.

Mr. F. B. Kellogg resumes and continues his argument upon the order to show cause on behalf of the complainant.

Mr. J. G. Flanders states and argues the cause of the defendants upon the order to show cause on behalf of the defendants.

1544 And the hearing upon said order to show cause not being concluded at the hour of adjournment, it is by the court ordered that further proceedings herein be and they hereby are postponed and continued until tomorrow morning at half past nine o'clock.

* * * * *

A true record.

Attest :

HENRY D. LANG, Clerk.

1545 United States Circuit Court for the District of Minnesota,
Third Division.

Term Minutes, June Term, A. D. 1905, Oct. 3rd, 1905.

TUESDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. Willis Van Devanter, circuit judge. Henry D.
Lang, clerk. By Louise B. Trott, deputy.

UNITED STATES OF AMERICA
vs.
GENERAL PAPER COMPANY ET AL. } C. Equity. No. 813.

This day again come the parties to this cause by their respective
solicitors and the hearing upon the order to show cause is resumed
and continued as follows, to-wit:

Mr. James G. Flanders resumes and concludes the argument upon
the order to show cause on behalf of the defendants.

Mr. Frank B. Kellogg replies and concludes the argument upon
the order to show cause on behalf of the complainant.

And after hearing the arguments and statements of the solicitors
for the respective parties and being fully advised in the premises
upon due consideration, the court delivers an oral opinion in favor
of the complainant and against the defendants upon the order to
show cause, and directs the complainant's solicitors to prepare an
order accordingly to be signed, filed and entered.

The defendants thereupon pray an appeal from the decision and
order of the court herein, and the hearing upon said prayer and
application of appeal therefrom is by the court set down for argu-
ment at St. Paul, at the Federal building on Saturday October 7th,
A. D. 1905 at ten o'clock in the forenoon.

* * * * *
A true record.
Attest:

HENRY D. LANG, Clerk.

1546 United States Circuit Court for the District of Minnesota,
Third Division.

Term Minutes, June Term, A. D. 1905, Oct. 7th, 1905.

SATURDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. Willis Van Devanter, circuit judge. Henry D. Lang, clerk.

UNITED STATES OF AMERICA
VS.
GENERAL PAPER COMPANY ET AL. } E. C. No. 813.

This day come again the parties to this cause by their respective solicitors. Messrs. Frank B. Kellogg and Robert E. Olds appearing on behalf of the complainant and Messrs. James G. Flanders, William Brace and Charles E. Monroe appearing on behalf of the defendants, and the application and motion of the defendants for an order allowing an appeal from, and for a stay of proceedings upon the order this day entered herein, requiring the defendants to produce certain books and documents and answer certain questions upon their examination before the examiner duly appointed to take and report the testimony in this cause, now coming on to be heard.

Mr. Charles E. Monroe argues said motion on behalf of the defendants.

Mr. Robert E. Olds argues in opposition thereto on behalf of the complainant.

Mr. Frank B. Kellogg argues further in opposition on behalf of said complainant.

Mr. James G. Flanders argues in reply on behalf of the defendants.

And here the court takes a recess until two o'clock p. m.

The court resumes proceedings at two o'clock p. m.

Mr. Charles E. Monroe argues in reply and conclusion upon said motion and application, on behalf of the defendants.

And after hearing the arguments and statements of the solicitors for the respective parties and being fully advised in the premises upon due consideration, the court delivers an oral decision denying the motion for the allowance of an appeal from and refusing
1547 a stay of proceedings upon the aforesaid order.

Upon the agreement and consent of the solicitors for the respective parties hereto, it is by the court ordered that further proceedings herein be and the same hereby are postponed and continued until Thursday morning next, October 12th, 1905, at ten o'clock in the forenoon.

UNITED STATES OF AMERICA

VS.

GENERAL PAPER COMPANY, THE ITASCA PAPER Company, Hennepin Paper Company, Wolf River Paper and Fiber Company, Atlas Paper Company, Kimberly and Clark Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Towahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company.

C. Equity. No. 813.

In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair to answer questions and produce books and documents.

The above entitled matter, having come before the court on the petition of the above named petitioner, The United States of America, and the order to show cause issued in accordance with the prayer of said petition directing the witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, mentioned in said petition to 1548 appear and show cause why they should not answer certain questions, comply with certain requests, and procure certain books and papers, as particularly described and set forth in the said petition and schedule of refusals thereunto annexed, and on the returns filed by the said witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and the above named defendants Hennepin Paper Company, Itasca Paper Company and Northwest Paper Company, to said petition and order to show cause, and the said witnesses Nelson, Bossard and McNair and the said defendants Hennepin Paper Company, Itasca Paper Company and Northwest Paper Company appearing by their counsel Messrs. Winkler, Flanders, Smith, Bottum, & Fawcett and Messrs. Defrees, Brace and Ritter, and the said petitioner appearing by its counsel Messrs. Frank B. Kellogg & Robert E. Olds,

Now therefore, after hearing counsel, it is ordered, adjudged and decreed: that the said witnesses Benjamin F. Nelson, A. C. Bossard

and Clarence I. McNair be and they are hereby each of them directed to appear before Robert S. Taylor, special examiner in the above entitled action, at nine o'clock in the forenoon of October 12, 1905, in the United States district court room in the city of St. Paul, State of Minnesota, and they are each of them directed then and there to answer each and every of the questions put to them respectively by the counsel for said petitioner, The United States of America, as set forth in the petition herein and the schedule thereunto annexed, and the said witnesses are severally and respectively directed to produce before said examiner, at such time and place, the books and papers particularly specified in the *subpoenas duces tecum* heretofore served upon them and mentioned in said petition and the schedule of refusals thereunto annexed, and to permit petitioner's counsel, at such time and place, and at any adjournment of said hearing before said examiner, to examine and introduce in evidence such portions of such books and papers as show or contain the particular matters and things specified in such subpoenas.

1549 It is further ordered that in the event the said witnesses or either of them shall refuse to comply with this order, either in whole or in part, the petitioner shall be at liberty, by appropriate petition, to inform the court of such refusal in order that such proceedings may be had as may be proper or necessary to the investigation and punishment of the contempt involved in such refusal and to the further enforcement of this order.

And the said witnesses Benjamin F. Nelson, A. C. Bossard, Clarence I. McNair, and the said defendants Hennepin Paper Company Itasca Paper Company, and Northwest Paper Company, do now severally and jointly except to this order and every part thereof, and do now severally and jointly pray that an appeal herefrom be allowed to the Supreme Court of the United States.

And the court being of opinion that this order does not constitute a final decision, does now refuse to allow such appeal on the part of either of said witnesses or either of said defendants, or on the part of all of them jointly, to which ruling the said witnesses and the said defendants do now severally and jointly except.

Dated — 7th, 1905.

October 7th, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

Ordered that this court do now adjourn until Monday morning next at ten o'clock.

A true record.

Attest:

HENRY D. LANG, Clerk.

1550 United States Circuit Court for the District of Minnesota,
Third Division.

Term Minutes, June Term, A. D. 1905, Oct. 12th, 1905.

THURSDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. Willis Van Devanter, circuit judge. Henry D. Lang, clerk.

THE UNITED STATES OF AMERICA
vs.

GENERAL PAPER COMPANY, THE ITASCA PAPER Company, Wolf River Paper and Fiber Company, Hennepin Paper Company, Atlas Paper Company, Riverside Fibre and Paper Company, Wausau Paper Mills Company, Centralia Pulp and Water-power Company, Combined Locks Paper Company, Dells Paper and Pulp Company, Grand Rapids Pulp and Paper Company, Menasha Paper Company, The C. W. Howard Company, The Nekoosa Paper Company, The Falls Manufacturing Company, Flambeau Paper Company, The John Edwards Manufacturing Company, The Wisconsin River Paper and Pulp Company, Tomahawk Pulp and Paper Company, Northwest Paper Company, Consolidated Water Power and Paper Company, The Petoskey Fibre Paper Company, Rhinelander Paper Company.

C. Equity. No. 813.

In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard, and Clarence I. McNair to answer questions and produce books and documents.

The above entitled matter came on before the court upon the petition of the above named petitioner, The United States of America this day filed, the report of the special examiner herein also this day filed, the respective answers this day filed by and on behalf of each of the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, and upon all of the records, files, testimony and exhibits in the above entitled cause, the said witnesses Nelson, Bossard and McNair being personally before the court and appearing by their counsel, Messrs. Winkler, Flanders, Smith, Bottum & Fawsett, and the said petitioner appearing by its counsel, Messrs. Davis, Kellogg & Severance and Robert E. Olds,

Esq., and it appearing that pursuant to the order of this court, made and entered on the 7th day of October, 1905, directing the said witnesses, Nelson, Bossard and McNair and each of them, to appear before the said special examiner and answer certain questions and comply with certain requests to produce evidence, the said witnesses did at the time and place directed appear before said special examiner, but that they and each of them did, contrary to the said order of this court and in wilful disobedience thereto and contempt therefor, refuse to answer each and every of the said questions and to comply with each and every of the said requests to produce evidence as therein directed, save and except that four certain questions among those previously propounded to the said witnesses McNair were not repeated to the said McNair upon his appearance before the said special examiner to said order; and the said witnesses Nelson, Bossard and McNair now expressly consenting that these proceedings, although several as to each of the said witnesses, may be conducted and concluded and judgment pronounced therein as if the contempt charged were joint instead of several, and the said witnesses Nelson, Bossard and McNair now also waiving the issue of any attachment herein;

Now therefore, after hearing counsel, it is ordered and adjudged: that the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair and each of them, are severally guilty of contempt of this court in having wilfully disobeyed the said order of this court made and entered herein on the 7th day of October, 1905, by refusing to answer the questions and to comply with the requests to produce evidence therein directed to be answered and complied with, and

It is further ordered and adjudged that the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair, be and they are each of them severally hereby assessed and fined in 1552 the sum of one hundred dollars for their said disobedience of the said order, said fines to be paid to the clerk of this court for the use of the United States as punishment for such contempts; and

It is further ordered and adjudged: that in addition to the said fines, the said witnesses, Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair and each of them, be imprisoned in the county jail of Ramsey county, Minnesota, each until his said fine is paid and until he shall fully comply with the said order made and entered on the 7th day of October, 1905, and the whole thereof.

And on the application of the said Nelson, Bossard and McNair they are severally granted five days within which to prepare and present for allowance a bill of exceptions herein. Dated this 12th day of October, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

* * * * *

A true record.

Attest:

HENRY D. LANG, Clerk.

1553 United States Circuit Court for the District of Minnesota,
Third Division.

Term Minutes, June Term, A. D. 1905, Oct. 13th, 1905.

FRIDAY MORNING.

Court opened pursuant to adjournment.

Present: Hon. Willis Van Devanter, circuit judge; Henry D. Lang, clerk.

UNITED STATES OF AMERICA
vs.
GENERAL PAPER COMPANY ET AL. } C. Equity. No. 813.

This day come the parties to this cause by their respective solicitors, Mr. Robert E. Olds appearing on behalf of the complainant and Messrs. William Brace and Charles E. Monroe appearing on behalf of the defendants, and the witnesses Benjamin F. Nelson, Anselm C. Bossard and Clarence I. McNair, who have been adjudged to be in contempt of court, by their solicitors present their bill of exceptions for settlement and allowance and the same having been duly examined and no objections thereto being interposed by complainant's solicitor, the said bill of exceptions is accordingly settled, allowed, signed and filed.

Ordered that this court do now adjourn until tomorrow morning at ten o'clock.

A true record.

Attest:

HENRY D. LANG, Clerk.

1554 And on the 12th day of October the following appeal papers, viz., were filed of record in said cause on behalf of the witness Benjamin F. Nelson:

Petition for writ of error,

Order allowing writ of error and supersedeas,

Assignment of errors and prayer for reversal,

Supersedeas bond,

Writ of error, and

Citation and proof of service, in the words and figures following

viz:

1555 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
BENJAMIN F. NELSON, Respondent. }

Petition for Writ of Error.

Now comes Benjamin F. Nelson, the respondent above named, and says that in the judgment entered in the above entitled matter on this 12th day of October, A. D. 1905 and in the proceedings heretofore had in said matter certain errors were committed to the prejudice of this respondent, all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore this respondent prays that a writ of error may issue in this behalf to the Supreme Court of the United States for the correction of the errors so complained of and that a transcript of the record, proceedings and papers in said matter, duly authenticated, may be sent to said Supreme Court of the United States.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Benjamin F. Nelson.

(Endorsed :) Petition for writ of error B. F. Nelson Filed October 12th 1905 Henry D. Lang, clerk.

1556 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
BENJAMIN F. NELSON, Respondent. }

The above named Benjamin F. Nelson having prayed for the allowance of a writ of error to the Supreme Court of the United States from the judgment heretofore made and filed in the above entitled matter so far as the same relates to said Benjamin F. Nelson, or to any of the matters assigned by him as error in his assignment of errors filed herewith, and that pending said writ of error further proceedings under said judgment may be stayed by the order of this court; and said Benjamin F. Nelson having filed a bond with surety satisfactory to this court in the penalty of one thousand dollars (\$1000) conditioned on the prosecution of said writ of error to effect by said Benjamin F. Nelson and to answer all damages and costs, if said appellant fail to make said appeal good.

It is now therefore ordered that said writ of error of said Benjamin F. Nelson be, and the same is, hereby allowed; that said bond be, and the same is, hereby approved, and that further proceedings under said judgment be, and the same are, hereby stayed pending said writ of error. And that said Benjamin F. Nelson have five days within which to prepare and present to the court his bill of exception, and that said Benjamin F. Nelson, Clarence I. McNair and Anselm C. Bossard have leave to present a joint and several bill of exceptions.

Dated October 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

(Endorsed :) Order allowing supersedeas & writ of error B. F. Nelson Filed October 12th 1905 Henry D. Lang, clerk.

1557 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
BENJAMIN F. NELSON, Respondent. }

Assignment of Errors by Benjamin F. Nelson.

Now comes the said Benjamin F. Nelson, and for his assignment of errors in the above entitled matter says that in the final order and judgment heretofore made and entered by the court, wherein this respondent is adjudged to be guilty of contempt of court and fined and punished for not answering certain questions and for not producing certain books and papers for inspection by counsel for the complainants above named and to be introduced in evidence in a case now pending in said court wherein The United States of America are complainants and General Paper Company and others are defendants, there is error in the respects hereinafter set forth, that is to say:

1. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you known of E. A. Edmonds performing any other function or duty in connection with the business of the General Paper Company than as a member of the board of directors or executive committee of the General Paper Company?

2. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State, if you know, whether the prices received by the various mills have been equalized as to butchers' fiber?

3. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: During

the time the General Paper Company has acted as the selling agent of these defendant mills, state whether there has been in existence an arrangement whereby the prices received through the General Paper Company by the defendant mills for butchers' fiber have been equalized as between the mills.

4. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether any of the defendant mills not manufacturing butchers' fiber have, through the General Paper Company, compensated those mills manufacturing butchers' fiber for making that class of paper because it was less profitable than other classes of paper.

5. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do you know whether any of the defendant mills have been compensated during this time by other defendant mills for making butchers' fiber?

6. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you ever made any payments to any of the mills making butchers' fiber or made any payments through the General Paper Company to any of the mills making butchers' fiber since the General Paper Company was the exclusive selling agent?

7. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following questions: Have you received any statements through any officer of the General Paper Company as a basis for any payments to compensate any of the defendant mills for making butchers' fiber?

8. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do you know whether the defendant corporations manufacturing 1559 hanger paper have had any arrangement whereby the price was equalized which they received from the General Paper Company?

9. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did the defendant corporations manufacturing hanger paper have any arrangement among themselves with the General Paper Company during the year 1904, whereby the General Paper Company allowed each mill a fixed or definite price during that year, and the balance received over and above that price by the General Paper Company was distributed to all the defendant companies manufacturing hanger paper on the basis of their average daily output of that grade of paper?

10. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following questions: State, if you know, the basis on which the prices to the defendant companies or any of them for hanger paper sold through the General Paper Company was equalized? And: Was it in any way equalized?

11. The court erred in adjudging said respondent to be guilty of

contempt of court in not answering the following question: Did the General Paper Company allow or credit or pay each of the corporations defendant, manufacturing hanger paper, a fixed or definite price for such paper for the year 1904, which price was the same as all mills manufacturing that grade of paper, and was the balance over and above that sum divided among all the defendant mills manufacturing that grade of paper in proportion to the average daily output thereof?

12. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did you ever attend a meeting of the executive committee where that subject (referring to the previous question) was discussed?

13. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether or not at those meetings—any of them—you fixed the price for any definite period to be received by the other mills

1560 14. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: I ask you the same question as to the equalization of prices, which you have refused to answer, as to the years 1900, 1901, 1902, 1903, and the present year—1905.

15. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State, if you know, how the prices are fixed to the defendant mills for news print paper?

16. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Was there any arrangement between the General Paper Company and any of the defendant mills whereby news print paper was sold to the General Paper Company or by them for a definite, fixed price during any of the period that that company has been the general agent?

17. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether, if you know, that price was less than the final price settled for by the General Paper Company with the defendant mills.

18. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether the balance over and above that fixed price was divided among the defendant mills.

19. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did the defendant corporations manufacturing news print paper or any grade of paper have any arrangement among themselves with the General Paper Company during any time since the organization of the General Paper Company, whereby the General Paper Company allowed each mill a fixed or definite price during any period, and the balance received over and above that price by the General Paper Company was distributed to all the defendant companies

manufacturing any class of paper on the basis of their average daily output thereof.

1561 20. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Was there any such arrangement as to news print paper?

21. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Was there any arrangement whereby the General Paper Company, as the general sales agent, equalized the prices received for news print paper among the defendant companies?

22. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did the General Paper Company deduct any more than the three per cent. commission which it was to receive under its contract with your company on your sales?

23. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did it not, as a matter of fact, in the first instance, deduct all over and above a fixed definite price?

24. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: What dividends has your company received or you for your company, on the stock held in the General Paper Company?

25. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you ever received any dividends from the General Paper Company, or has your company ever received any dividends on the stock it holds in that company?

26. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Does the report of the sales agent show the prices which the General Paper Company paid to the mills?

27. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether or not these reports show the basis of the division or
1562 equalization, rather, of prices between the defendant companies.

28. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the profits of the General Paper Company?

29. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have the board of directors, the executive committee, or the stockholders at any time during the time you have been a director of the General Paper Company fixed the price of any grade of paper to be paid to each of the defendant companies by the General Paper Company or through the General Paper Company?

30. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State

whether or not the executive committee, the board of directors, or the stockholders of the General Paper Company did, during the year 1904, or at any time since the organization of the General Paper Company, fix the price at which the General Paper Company would sell any grade of paper in any community or district or fix a minimum price?

31. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you discussed those prices or fixed any price of paper to be sold for the defendant companies by the General Paper Company as a board of directors or stockholders or as an executive committee?

32. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Whether there was not during the winter of 1900, or the fall of 1899, a good deal of talk between the different manufacturers of paper in Minnesota and Wisconsin about eliminating competition.

33. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: I ask you, did you talk with any of the gentlemen who represent any of these defendant mills, in the spring of 1900, before the organization of the General Paper Company, about organizing a corporation to act as the general selling agent in order to eliminate competition?

34. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do the books of the Hennepin Paper Company show the amount, kinds and grades of paper manufactured by the Hennepin Paper Company?

35. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the kinds and grades of paper sold by or through the defendant General Paper Company as the exclusive sales agent of the Hennepin Paper Company, since the 5th day of July, 1900?

36. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they also show where the said paper manufactured and sold has been shipped since the 5th day of July, 1900?

37. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether those books show the prices, amounts of credit, received for such paper from the General Paper Company between the 5th day of July, 1900, and the present time, including entries showing the manner in which the prices and amounts received or realized by the Hennepin Paper Company for any and all of its products so sold by or through the defendant General Paper Company have been equalized with the prices and amounts received or realized by any or all of the other defendant companies of which the General Paper Company is or has been the exclusive sales agent in any and all of

their products and for similar products between the 5th day of July, 1900, and the present time.

38. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do your books show the amounts and proportion of the earnings or profits of the General Paper Company received by the defendant Hennepin Paper Company from or through the defendant General
1564 Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of July, 1900, and the present time?

39. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do they show the prices received by your company for paper manufactured by it and sold by the General Paper Company?

40. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do they show the amount of dividends received from the General Paper Company?

41. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do they show the places where the product of the Hennepin Paper Company mill is sold and to what States and Territories shipped?

42. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do the books, journals or ledgers of the Hennepin Paper Company show any agreement or arrangement or understanding under and pursuant to which and the manner in which the prices and amounts realized by the Hennepin Paper Company upon various grades of paper manufactured by it and sold by or through the defendant The General Paper Company are and have been, since the 5th day of July, 1900, equalized or the profits arising from the sale of such paper distributed or apportioned as between the defendants?

43. The court erred in adjudging said respondent to be guilty of contempt of court in refusing to submit to the inspection of counsel for the Government, or to allow them or any part of them to be put in evidence, the books and papers called for by counsel for complainant, and which had been produced and were in court at the time of the examination of said respondent.

44. The court erred in holding that the respondent is not privileged, and that Hennepin Paper Company, of which this re-
1565 spondent is an officer, was not privileged, under the fourth amendment to the Constitution of the United States, which provides that the right of the people to be secure in their papers, houses and effects against unreasonable searches and seizures should not be violated, from producing for inspection by counsel for the United States of America, and for introduction in evidence in the cause above mentioned, the books and papers which this respondent was required and refused to produce.

45. The court erred in holding that this respondent and said Hen-

nepin Paper Company were not privileged, under the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, from answering the questions and producing for inspection by counsel for the complainant and for introduction in evidence in the cause aforesaid the books and papers aforesaid, which this respondent refused to answer or to produce for the purposes aforesaid.

46. The court erred in holding that the provisions of an act of Congress, approved February 25, 1903, purporting to give immunity from prosecution to witnesses in certain cases for or on account of transactions, matters or things concerning which they may testify, required this respondent to answer the questions or produce the books and papers aforesaid for the purposes aforesaid.

47. The court erred in holding that said act gave said respondent or said Hennepin Paper Company immunity from prosecution under the laws of the State of Minnesota, for or on account of any of the transactions, matters or things concerning which he was directed to testify and to produce books and papers as aforesaid.

48. The court erred in holding that said act of Congress is not unconstitutional and void so far as it purports to give this respondent or said Hennepin Paper Company immunity from prosecution under the laws of the State of Minnesota, for or on account of any of the transactions, matters or things concerning which he was directed to testify and to produce books and papers as aforesaid.

1566 49. The court erred in holding that said act of Congress approved February 25, 1903, gave said Hennepin Paper Company immunity from prosecution under the act of Congress, approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," for or on account of any of the transactions, matters or things concerning which he was directed to testify and produce books and papers as aforesaid.

50. The court erred in holding that the order of said court entered October 7, 1905, requiring him to answer said questions and to produce said books and papers was valid and effective.

51. And in not holding that said order of said court entered October 7, 1905, was void for want of power and jurisdiction in said court to enter and enforce the same.

Wherefore said Benjamin F. Nelson prays that the order and judgment of said circuit court of the United States for the district of Minnesota, in the third division thereof, so far as it relates to this respondent or to any of the matters above assigned for error, for the errors aforesaid, and for other errors in the record and proceedings in said matter, and in the order and judgment aforesaid, may be reversed and that said court may be directed to enter a judgment dismissing the petition in said matter so far as it relates to said

respondent or to any of the matters and things above assigned for error.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Benjamin F. Nelson.

(Endorsed :) Assignment of errors & prayer for reversal. B. F. Nelson. Filed October 12th 1905. Henry D. Lang, clerk.

1567 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs.
GENERAL PAPER COMPANY and Others, Defendants. }

In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard, and Clarence I. McNair to answer questions and produce books and documents.

Know all men by these presents, that we, Benjamin F. Nelson, as principal, and Rufus C. Jefferson and Frederick E. Weyerhauser, as sureties, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Signed with our seals and dated this 12th day of October, A. D. 1905.

Whereas, lately in said circuit court in the above entitled matter therein pending a judgment and sentence was rendered against the above named Benjamin F. Nelson, adjudging said Nelson guilty of contempt of court and fining him \$100 for having wilfully disobeyed the order of this court made and entered herein on the 7th day of October, 1905 by refusing to answer the questions and to comply with the requests to produce evidence therein directed to be answered and complied with, and ordering that said Benjamin F. Nelson be imprisoned in the county jail of Ramsey county, Minnesota, until his said fine is paid and until he shall fully comply with said order made and entered on the 7th day of October, 1905, and the whole thereof.

Now therefore, the condition of this obligation is such that if the above named Benjamin F. Nelson shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error to effect and shall abide by and obey all orders made by said Supreme Court in said cause

and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, and pay all costs which may be awarded against him if the judgment and sentence against him shall be affirmed, then the above obligation to be void, otherwise to remain in full force, virtue and effect.

BENJAMIN F. NELSON.

RUFUS C. JEFFERSON.

FREDERICK E. WEYERHAEUSER.

[SEAL.]

[SEAL.]

[SEAL.]

Signed, sealed and delivered in presence of:

HENRY D. LANG.

CHARLES E. MONROE.

1569 STATE OF MINNESOTA, } ss:
County of Ramsey,

Be it known that on this 12th day of October, A. D., 1905, personally came before me the undersigned, a notary public in and for said county and State, the above named Benjamin F. Nelson, Rufus C. Jefferson and Frederick E. Weyerhaeuser to me personally known to be the persons described in and who executed the foregoing instrument, and each for himself acknowledged that he executed the same as his free act and deed.

HENRY D. LANG,

[NOTARIAL SEAL.]

Notary Public, Ramsey County,
Minnesota.

1570 STATE OF MINNESOTA, } ss:
County of Ramsey,

Rufus C. Jefferson and Frederick E. Weyerhaeuser being first duly sworn depose and say, and each for himself severally deposes and says, that he is a citizen and resident and freeholder of the State of Minnesota and that he is worth over and above all his just debts and liabilities and over and above all property exempt from execution the sum of two thousand dollars.

RUFUS C. JEFFERSON.

FREDERICK E. WEYERHAEUSER.

Sworn and subscribed to before me this 12th day of October, A. D., 1905.

HENRY D. LANG,

[NOTARIAL SEAL.]

Notary Public, Ramsey County,
Minnesota.

The foregoing bond and the sureties thereon are hereby approved,
Oct. 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

(Endorsed :) Supersedeas bond B. F. Nelson Filed October 12th,
1905 Henry D. Lang, clerk.

1571 UNITED STATES OF AMERICA, ss:

The President of the United States to the honorable, the judges of the circuit court of the United States for the district of Minnesota, third division, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between The United States of America, complainants, and Benjamin F. Nelson, respondent, a manifest error hath happened to the great damage of said Benjamin F. Nelson, respondent, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States together with this writ, so that you have the same at Washington, on the 11th day of November next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, this twelfth day of October in the year of our Lord one thousand nine hundred and five.

[Seal U. S. Circuit Court Dist. of Minnesota, Third Division.]

HENRY D. LANG,
Clerk Circuit Court of the United States for the
District of Minnesota, Third Division.

The foregoing writ is hereby allowed.
Oct. 12 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

1572 UNITED STATES OF AMERICA, } ss:
District of Minnesota, Third Division, }

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States of America a duly certified transcript of the record and proceedings in the within entitled cause, with all things concerning the same.

In witness whereof, I hereto subscribe my name and affix the seal of the circuit court of the United States for the district of Minnesota, third division.

[Seal U. S. Circuit Court Dist. of Minnesota, Third Division.]

HENRY D. LANG,
Clerk of the Circuit Court of the
United States of America for District of Minnesota.

[Endorsed:] Entered 813 C. eq. Writ of error. Matter of Benjamin F. Nelson. Filed October 12th, 1905. Henry D. Lang, clerk.

1573 UNITED STATES OF AMERICA, ss :

To the United States of America, Greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the 11th day of November, A. D. 1905, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, third division, wherein Benjamin F. Nelson is plaintiff in error and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Willis Van Devanter, one of the judges of the circuit court of the United States for said district of Minnesota, third division, this twelfth day of October in the year of our Lord one thousand nine hundred and five.

WILLIS VAN DEVANTER,
Circuit Judge.

Service of the above citation is hereby admitted this 12th day of October, 1905.

FRANK B. KELLOGG,
JAMES M. BECK,
ROBERT E. OLDS,
Solicitors for United States.

1574 [Endorsed:] Entered 813 C. eq. Citation Matter of Benjamin F. Nelson. Filed October 12th, 1905 Henry D. Lang, clerk.

1575 And on October 12th, 1905 the following appeal papers were filed of record in said cause on behalf of Anselm C. Bossard, viz :

Petition for writ of error,
Order allowing writ of error and supersedeas,
Assignment of errors and prayer for reversal,
Supersedeas bond,
Writ of error, and
Citation and proof of service,
in the words and figures following, viz :

1576 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
ANSELM C. BOSSARD, Respondent. }

Petition for Writ of Error.

Now comes Anselm C. Bossard, the respondent above named, and says that in the judgment entered in the above entitled matter on this 12th day of October, A. D. 1905 and in the proceedings heretofore had in said matter certain errors were committed to the prejudice of this respondent, all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore this respondent prays that a writ of error may issue in this behalf to the Supreme Court of the United States for the correction of the errors so complained of and that a transcript of the record, proceedings and papers in said matter, duly authenticated, may be sent to said Supreme Court of the United States.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Anselm C. Bossard.

(Endorsed :) Petition for writ of error. A. C. Bossard Filed October 12th, 1905 Henry D. Lang, clerk.

1577 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
ANSELM C. BOSSARD, Respondent. }

The above named Anselm C. Bossard having prayed for the allowance of a writ of error to the Supreme Court of the United States from the judgment heretofore made, and filed in the above entitled matter so far as the same relates to said Anselm C. Bossard, or to any of the matters assigned by him as error in his assignment of errors filed herewith, and that pending said writ of error further proceedings under said judgment may be stayed by the order of this court; and said Anselm C. Bossard having filed a bond with surety satisfactory to this court in the penalty of one thousand dollars (\$1000) conditioned on the prosecution of said writ of error to effect by said Anselm C. Bossard and to answer all damages and costs, if said appellant fail to make said appeal good.

It is now therefore ordered that said writ of error of said Anselm C. Bossard be, and the same is, hereby allowed; that said bond be, and the same is, hereby approved, and that further proceedings under said judgment be, and the same are, hereby stayed pending said writ of error. And that said Anselm C. Bossard have five days within which to prepare and present to the court his bill of exception, and that said Anselm C. Bossard, Clarence I. McNair and Benjamin F. Nelson have leave to present a joint and several bill of exceptions.

Dated October 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

(Endorsed:) Order allowing supersedeas & writ of error A. C. Bossard Filed October 12th 1905 Henry D. Lang, clerk.

1578 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
ANSELM C. BOSSARD, Respondent. }

Assignment of Errors by Anselm C. Bossard.

Now comes the said Anselm C. Bossard, and for his assignment of errors in the above entitled matter says that in the final order and judgment heretofore made and entered by the court, wherein this respondent is adjudged to be guilty of contempt of court and fined and punished for not answering certain questions and for not producing certain books and papers for inspection by counsel for the complainants above named, and to be introduced in evidence in a case now pending in said court wherein The United States of America are complainants and General Paper Company and others are defendants, there is error in the respects hereinafter set forth, that is to say:

1. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: What basis of price does the General Paper Company make to your company (Itasca Paper Company) for the product of your mill?

2. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did the defendant corporations manufacturing news print paper have any arrangement among themselves and with the General Paper Company during the year 1904 whereby the General Paper Company allowed each mill a fixed or definite price during that year and the balance received over and above that price by the General Paper Company was distributed to all the defendant com-

panies manufacturing news print paper on the basis of their average daily output of that grade of paper?

3. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did your company have any arrangement with the General Paper Company and the other defendant companies for fixing the price of news print paper?

4. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did your company have any arrangement with the General Paper Company and the other defendant companies for fixing the price received by your company and the other companies on news print paper during any of the time while the General Paper Company has been the exclusive selling agent of your company?

5. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you had any arrangement for equalizing those contracts between the defendant companies manufacturing news print paper, during the time the General Paper Company has been the exclusive selling agent of your company?

6. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether the General Paper Company during this time allowed or paid to your company and each of the other defendant companies manufacturing news print paper a fixed or definite price for such paper, in the first instance, which price is the same to all manufacturing that grade of paper, and whether the balance over and above that sum was divided among the defendant mills manufacturing that grade of paper in proportion to the average daily output thereof.

7. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did you have any basis agreed on with the General Paper Company 1580 for the division,—or for the equalization of prices?

8. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether you ever attended a meeting of the executive committee or the directors or the stockholders at which the price of news print paper, or any other grade of paper, was fixed by the executive committee, or the directors, or the stockholders of the General Paper Company.

9. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: I mean the price received or to be received by any of the defendant companies for paper manufactured by it and sold through the General Paper Company.

10. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether the executive committee, board of directors or stockholders

of the General Paper Company, did, in the year 1904, or at any other time since your company has been a member of the General Paper Company, fix the price at which the General Paper Company would sell any grade of paper in any community or district, or fix the minimum price thereof.

11. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following questions: State whether your company paid any more than the 3% which the Itasca Paper Company agreed to pay to the General Paper Company under its contract as a commission on all sales effected by the General Paper Company for your company? And: Was any more than that 3% first deducted by the General Paper Company from the price of paper which it sold for your company during any of this time.

12. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has your company received any dividends from the General Paper Company on the stock it holds in that company?

13. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you received any dividends for your company; if so, state how much.

14. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether in lieu of dividends, all sums over and above a flat price have been distributed among the defendant companies after deducting the expenses of management of the General Paper Company.

15. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do the books of the company show the amount of paper manufactured by the Itasca Paper Company?

16. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the kinds and grades of paper manufactured by your company?

17. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do those books show the amount, kinds and grades manufactured by your company and sold by or through the General Paper Company as the exclusive sales agent of the defendant, Itasca Paper Company, since the date of the contract by which it is made the general sales agent, and also show where the said paper is sold and into what territory shipped?

18. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do those books show the prices, amounts and credits received for such paper from the General Paper Company since the General Paper Company has been the exclusive sales agent of your company?

19. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the prices, amounts or credits received for such paper from the defendant General Paper Company, between the 5th day of February, 1902, and the present time, including entries showing the manner in which the prices and amounts received by the defendant Itasca Paper Company, for any or all of its products so sold by or through the defendant General Paper Company have been equalized?

20. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the way the prices have been equalized with the 1582 amounts received by other defendant companies for which the General Paper Company is the exclusive sales agent?

21. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do they show the net amount received by your company for all papers sold by the General Paper Company?

22. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do those books show the amounts and proportions of the earnings and profits of the General Paper Company received by the defendant, Itasca Paper Company, from or through the defendant, General Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, between the 5th day of February, 1902, and the present time?

23. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do the books, including the journals, ledgers and other books kept by the Itasca Paper Company show the agreement, arrangement or understanding, under and pursuant to which and the manner in which the prices and amounts realized by the defendant, Itasca Paper Company, upon the various kinds and grades of paper manufactured by it and sold by or through the General Paper Company are and have been since the 5th day of February, 1902, equalized, or the profits arising from such paper distributed or proportioned as between the said defendant, the Itasca Paper Company, and the other defendants manufacturing and selling through the defendant, General Paper Company, similar kinds or grades of paper.

24. The court erred in adjudging said respondent to be guilty of contempt of court in refusing to submit to the inspection of counsel for the Government, or to allow them or any part of them to be put in evidence, the books and papers called for by counsel for complainant, and which had been produced and were in court at the time of the examination of said respondent.

1583 25. The court erred in holding that the respondent is not privileged and that Itasca Paper Company, of which this respondent is an officer, was not privileged, under the fourth amendment to the Constitution of the United States, which provides that

the right of the people to be secure in their papers, houses and effects against unreasonable searches and seizures should not be violated, from producing for inspection by counsel for the United States of America, and for introduction in evidence in the cause above mentioned, the books and papers which this respondent was required and refused to produce.

26. The court erred in holding that this respondent and said Itasca Paper Company were not privileged, under the fifth amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, from answering the questions and producing for inspection by counsel for the complainant and for introduction in evidence in the cause aforesaid the books and papers aforesaid, which this respondent refused to answer or to produce for the purposes aforesaid.

27. The court erred in holding that the provisions of an act of Congress, approved February 25, 1903, purporting to give immunity from prosecution to witnesses in certain cases for or on account of transactions, matters or things concerning which they may testify, required this respondent to answer the questions or produce the books and papers aforesaid for the purposes aforesaid.

28. The court erred in holding that said act gave said respondent or said Itasca Paper Company immunity from prosecution under the laws of the State of Minnesota for or on account of any of the transactions, matters or things concerning which he was directed to testify and produce books and papers, as aforesaid.

29. The court erred in holding that said act of Congress is not unconstitutional and void so far as it purports to give this respondent or said Itasca Paper Company immunity from prosecution under the laws of the State of Minnesota, for or on account of any
584 of the transactions, matters or things concerning which he was directed to testify and produce books and papers as aforesaid.

30. The court erred in holding that said act of Congress approved February 25, 1903, gave said Itasca Paper Company immunity from prosecution under the act of Congress, approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," for or on account of any of the transactions, matters or things concerning which he was directed to testify and produce books and papers as aforesaid.

31. The court erred in holding that the order of said court entered October 7, 1905, requiring him to answer said questions and to produce said books and papers was valid and effective.

32. And in not holding that said order of said court entered October 7, 1905, was void for want of power and jurisdiction in said court to enter and enforce the same.

Wherefore said Anselm C. Bossard prays that the order and judgment of said circuit court of the United States for the district of Minnesota, in the third division thereof, so far as it relates to this respondent or to any of the matters above assigned for error, for the

errors aforesaid, and for other errors in the record and proceedings in said matter, and in the order and judgment aforesaid, may be reversed and that said court may be directed to enter a judgment dismissing the petition in said matter so far as it relates to said respondent or to any of the matters and things above assigned for error.

WINKLER, FLANDERS, SMITH, BOTTUM
& FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Anselm C. Bossard.

(Endorsed :) Assignment of errors & prayer for reversal. A. C. Bossard. Filed October 12th 1905. Henry D. Lang, clerk.

1585 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs. }
GENERAL PAPER COMPANY AND OTHERS, Defendants. }

In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard and Clarence I. McNair to answer questions and produce books and documents.

Know all men by these presents: that we, Anselm C. Bossard as principal, and Rufus C. Jefferson and Frederick E. Weyerhauser as sureties, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

Sealed with our seals and dated this 12th day of October, A. D. 1895.

Whereas, lately in said circuit court in the above entitled matter therein pending a judgment and sentence was rendered against the above names Anselm C. Bossard, adjudging said Bossard guilty of contempt of court and fining him \$100 for having wilfully disobeyed the order of this court made and entered herein on the 7th day of

October, 1905, by refusing to answer the questions and to comply with the requests to produce evidence therein directed to be answered and complied with, and ordering that said Anselm C. Bossard be imprisoned in the county jail of Ramsey county, Minnesota, until his said fine is paid and until he shall fully comply with said order made and entered on the 7th day of October, 1905, and the whole thereof.

Now, therefore, the condition of this obligation is such that if the above named Anselm C. Bossard shall appear either in person or by attorney in the Supreme Court of the United States on such day or

days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error to effect and shall abide by and obey all orders made by said Supreme Court in said cause and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, and pay all costs which may be awarded against him if the judgment and sentence against him shall be affirmed, then the above obligation to be void, otherwise to remain in full force, virtue and effect.

ANSELM C. BOSSARD, [SEAL.]
 RUFUS C. JEFFERSON, [SEAL.]
 FREDERICK E. WEYERHAEUSER. [SEAL.]

Signed, sealed and delivered in presence of

HENRY D. LANG.
 CHARLES E. MONROE.

1587 STATE OF MINNESOTA, }
 County of Ramsey, } ss:

Be it known that on this 12th day of October, A. D. 1905, personally came before me the undersigned, a notary public in and for said county and State, the above named Anselm C. Bossard Rufus C. Jefferson and Frederick E. Weyerhaeuser to me personally known to be the persons described in and who executed the foregoing instrument, and each for himself acknowledged that he executed the same as his free act and deed.

[NOTARIAL SEAL.] HENRY D. LANG,
 Notary Public, Ramsey County, Minnesota.

1588 STATE OF MINNESOTA, }
 County of Ramsey, } ss:

Rufus C. Jefferson and Frederick E. Weyerhaeuser being first duly sworn depose and say, and each for himself severally deposes and says, that he is a citizen and resident and freeholder of the State of Minnesota and that he is worth over and above all his just debts and liabilities and over and above all property exempt from execution the sum of two thousand dollars.

RUFUS C. JEFFERSON.
 FREDERICK E. WEYERHAEUSER.

Sworn and subscribed to before me this 12th day of October, A. D., 1905.

[NOTARIAL SEAL.] HENRY D. LANG,
 Notary Public, Ramsey County, Minnesota.

The foregoing bond and the sureties thereon are hereby approved,
 Oct. 12, 1905.

WILLIS VAN DEVANTER,
 Circuit Judge.

(Endorsed :) Supersedeas bond. A. C. Bossard. Filed October 12th 1905. Henry D. Lang, clerk.

1589 UNITED STATES OF AMERICA, ss :

The President of the United States to the honorable the judges of the circuit court of the United States for the district of Minnesota, third division, Greeting :

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between The United States of America, complainants, and Anselm C. Bossard, respondent, a manifest error hath happened to the great damage of said Anselm C. Bossard, respondent, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 11th day of November next in the said Supreme Court to be then and there held ; that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court this twelfth day of October in the year of our Lord one thousand nine hundred and five.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG,
Clerk Circuit Court of the United States for the
District of Minnesota, Third Division.

The foregoing writ is hereby allowed.

Oct. 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

1590 UNITED STATES OF AMERICA, } ss :
District of Minnesota, Third Division, }

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States of America a duly certified transcript of the record and proceedings in the within entitled cause, with all things concerning the same.

In witness whereof, I hereto subscribe my name and affix the seal of the circuit court of the United States for the district of Minnesota, third division.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG,
Clerk of the Circuit Court of the United States of
America for District of Minnesota.

[Endorsed:] Entered 813 C. eq. Writ of error Matter of Anselm C. Bossard. Filed October 12th 1905 Henry D. Lang clerk.

1591 UNITED STATES OF AMERICA, ss :

To the United States of America, Greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the 11th day of November, A. D. 1905, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, third division, wherein Anselm C. Bossard is plaintiff in error and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Willis Van Devanter, one of the judges of the circuit court of the United States for said district of Minnesota, third division, this twelfth day of October in the year of our Lord one thousand nine hundred and five.

WILLIS VAN DEVANTER,
Circuit Judge.

Service of the above citation admitted this 12th day of October, 1905.

FRANK B. KELLOGG,
JAMES M. BECK,
ROBERT E. OLDS,
Solicitors for United States.

1592 [Endorsed:] Entered 813 C. eq. Citation Matter of Anselm C. Bossard. Filed October 12th 1905 Henry D. Lang, clerk.

1593 And on October 12th, 1905 the following appeal papers on behalf of Clarence I. McNair were filed of record in said cause, viz :

Petition for writ of error,
Order allowing writ of error and supersedeas,
Assignment of errors and prayer for reversal,
Supersedeas bond,
Writ of error,
Citation and proof of service,
in the words and figures following viz :

1594 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
CLARENCE I. McNAIR, Respondent. }

Petition for Writ of Error.

Now comes Clarence I. McNair, the respondent above named, and says that in the judgment entered in the above entitled matter on this 12th day of October, A. D. 1905 and in the proceedings heretofore had in said matter certain errors were committed to the prejudice to this respondent, all of which will more in detail appear from the assignment of errors which is filed with this petition.

Wherefore this respondent prays that a writ of error may issue in this behalf to the Supreme Court of the United States for the correction of the errors so complained of and that a transcript of the record, proceedings and papers in said matter, duly authenticated, may be sent to said Supreme Court of the United States.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DE FREES, BRACE & RITTER,
Solicitors for Clarence I. McNair.

(Endorsed :) Petition for writ of error. C. I. McNair. Filed October 12th, 1905. Henry D. Lang, clerk.

1595 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
CLARENCE I. McNAIR, Respondent. }

The above named Clarence I. McNair having prayed for the allowance of a writ of error to the Supreme Court of the United States from the judgment heretofore made and filed in the above entitled matter so far as the same relates to Clarence I. McNair, or to any of the matters assigned by him as error in his assignment of errors filed herewith, and that pending said writ of error further proceedings under said judgment may be stayed by the order of this court; and said Clarence I. McNair having filed a bond with surety satisfactory to this court in the penalty of one thousand dollars (\$1000) conditioned on the prosecution of said writ of error to effect by said Clarence I. McNair and to answer all damages and costs, if said appellant fail to make said appeal good.

It is now therefore ordered that said writ of error of said Clarence I. McNair be, and the same is, hereby allowed; that said bond be, and the same is, hereby approved, and that further proceedings under said judgment be, and the same are, hereby stayed pending said writ of error. And that said Clarence I. McNair have five days within which to prepare and present to the court his bill of exception, and that said Clarence I. McNair, Benjamin F. Nelson and Anselm C. Bossard have leave to present a joint and several bill of exceptions.

Dated October 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

(Endorsed:) Order allowing supersedeas & writ of error. C. I. McNair. Filed October 12th, 1905. Henry D. Lang, clerk.

1596 In the Circuit Court of the United States in and for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainants, }
vs.
CLARENCE I. MCNAIR, Respondent. }

Assignment of Errors by Clarence I. McNair.

Now comes the said Clarence I. McNair, and for his assignment of errors in the above entitled matter says that in the final order and judgment heretofore made and entered by the court, wherein this respondent is adjudged to be guilty of contempt of court and fined and punished for not answering certain questions and for not producing certain books and papers for inspection by counsel for the complainants above named and to be introduced in evidence in a case now pending in said court wherein The United States of America are complainants and General Paper Company and others are defendants, there is error in the respects hereinafter set forth, that is to say:

1. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do the books of the Northwest Paper Company show what you manufacture?

2. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do you know of E. A. Edmonds having performed any other function for the General Paper Company than that of a director?

3. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question:
1597 Do you know whether any of the defendant companies during any of the time which your company has been connected with the General Paper Company, paid through the General Paper

Company to the companies making butchers' fiber any money to compensate those companies, or any of them, for making such butchers' fiber, because it was less profitable to make.

4. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has your company, or any one for your company, sent any checks or made any payments to E. A. Edmonds, as pool agent, to be divided up among the mills making butchers' fiber?

5. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has your company received any statements through any officer or agent of the General Paper Company showing or purporting to show the amount to be paid by your company to compensate other companies in this combination for making butchers' fiber?

6. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you discussed the subject of equalizing the prices on butchers' fiber at any of the meetings you have attended of the General Paper Company?

7. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has the executive committee fixed the price to be received by all the defendant companies manufacturing butchers' fiber?

8. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do you know whether the price received by any of the defendant mills manufacturing butchers' fiber has been equalized through the General Paper Company?

9. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Since the General Paper Company has acted as your exclusive selling agent, what basis, if any, has been used for the sale of the product of your mill?

10. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: 1598 State whether or not any basis has existed whereby all of the mills manufacturing that grade of paper have, through the General Paper Company, equalized the prices each company has received.

11. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether or not any basis has existed whereby the prices have been equalized or approximately equalized.

12. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: What has been the basis for the distribution of the contracts made with publishers by the General Paper Company among the several defendant manufacturers?

13. The court erred in adjudging said respondent to be guilty of

contempt of court in not answering the following question: How have the contracts entered into by the General Paper Company for the sale of news print paper been apportioned among the various defendant mills?

14. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether or not the defendant corporations manufacturing news print paper have during the time your company has been connected with the General Paper Company, had any agreement among themselves and with the General Paper Company whereby the General Paper Company allowed each mill a fixed or definite price and the balance over and above that price was divided among the defendant companies manufacturing news print paper on the basis of the daily output of that grade of paper.

15. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has any such arrangement existed as to hanger paper?

16. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do you know of any arrangement having existed between any of the defendant companies whereby a fixed or flat price for hanger paper 1599 has been made to the General Paper Company and the balance divided up between the mills making that grade of paper?

17. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has the board of directors, the executive committee, or the stockholders at any time when you have been present fixed the price of any grade of paper sold for the defendant companies through the General Paper Company?

18. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Or fixed the price at which the paper should be sold in any community or district, or the minimum price?

19. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has your company and the other defendant companies manufacturing news print paper received, in the first instance, from the General Paper Company, a fixed and definite price, and the balance over and above that price which was received by the General Paper Company divided among all the mills on any basis?

20. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: State whether those books show the amounts, kinds or grades of paper manufactured by the defendant Northwest Paper Company and sold by or through the defendant General Paper Company as the exclusive sales agent of the defendant Northwest Paper Company since the 8th day of April, 1902, or since about the 1st of May, 1902, if that is the date the business commenced.

21. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do the books also show where the said paper so manufactured was sold and into what States and Territories it was shipped since the 8th day of April, 1902, or the 1st day of May, 1902 ?

22. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question :
1600 Do they show the prices, amounts or credits received from such paper from the defendant the General Paper Company during said dates ?

23. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do they show the manner in which the prices received or realized by the defendant Northwest Paper Company for any and all of its products so sold by or through the General Paper Company have been equalized with the prices and amounts received and realized by all other defendant companies for like grades of paper during the same time ?

24. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do they show the amounts and proportions of the earnings or profits of the defendant General Paper Company received by the Northwest Paper Company from or through the defendant General Paper Company, either directly or indirectly, either in the form of dividends or in the form of rebates, credits or otherwise, during said time ?

25. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : Do the books, including the journals, ledgers and other books kept by the Northwest Paper Company show any agreement, arrangement or understanding under and pursuant to which or the manner in which the prices and amounts realized by the defendant Northwest Paper Company upon various kinds and grades of paper manufactured by it and sold by or through the General Paper Company, since the 8th day of April, 1902, have been equalized or the profits arising from the sale of such paper distributed or apportioned as between the defendant Northwest Paper Company and the other defendants manufacturing and selling through the defendant General Paper Company similar grades of paper ?

26. The court erred in adjudging said respondent to be guilty of contempt of court in refusing to submit to the inspection of counsel for the Government, or to allow them or any part of them to be put in evidence, the books and papers called for by counsel for complainant, and which had been produced and were in court at
1601 the time of the examination of said respondent.

27. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question : What dividend has your company received from the General Paper Company ?

28. The court erred in adjudging said respondent to be guilty of

contempt of court in not answering the following question: Have you received any dividends for your company on the stock of the General Paper Company?

29. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has the General Paper Company in the first instance deducted any more than 3% of the gross sales which it had deducted as its commission?

30. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Has any sum beyond 3%, deducted by the General Paper Company from the sales made by it for any of the defendant companies, been distributed among all the mills defendant in this case?

31. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you ever been present when the report of the sales agent has been produced?

32. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Does that report show the price received by each of the mills for paper sold by the General Paper Company?

33. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Have you any copies of the report?

34. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Does the treasurer's report show the gross and net earnings of the General Paper Company?

35. The court erred in adjudging said respondent to be guilty of contempt of court in refusing to submit to the inspection of 1602 counsel for the Government the copies of the reports called for by counsel for complainants, and which had been produced and were in court at the time of the examination of said respondent.

36. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Do those reports show the total sum distributed to the defendant mills by the General Paper Company, either as dividends or as earnings or surplus of any kind?

37. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: You were asked by Mr. Whiting and others to make the General Paper Company your exclusive selling agent in the spring of 1900, were you not?

38. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Is it not a fact that several times during the spring of 1900 or the winter of 1900, Mr. George A. Whiting, afterwards the vice-president of the General Paper Company, asked you to join or have your company

join the combination and make the General Paper Company its exclusive selling agent?

39. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: And you declined so to do (referring to preceding question) until the spring of 1902?

40. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Were any threats made against you or your company to induce you or it to become a member of this combination and make the General Paper Company its exclusive selling agent?

41. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Is it not a fact that officers of the General Paper Company, in the spring of 1902, threatened to undersell you and ruin your business if 1903 you didn't become a member and join the combination and make the General Paper Company the exclusive selling agent of your company?

42. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: As a matter of fact, did they not undertake to underbid you and run you out of St. Paul and Minneapolis contracts?

43. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did you exact any promise from the officers of the General Paper Company at the time you made that company the general selling agent of your company to protect your customers against exorbitant prices?

44. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did you have any agreement or understanding with the officers of the General Paper Company prior to the time that your company made that company its exclusive selling agent that they would keep out of Duluth and not bid for the contracts of the Tribune and the Herald?

45. The court erred in adjudging said respondent to be guilty of contempt of court in not answering the following question: Did the officers of the General Paper Company bring pressure to bear upon your company to go into the combination, in 1901, or to keep the prices up if you stayed out.

46. The court erred in holding that the respondent is not privileged, and that Northwest Paper Company, of which this respondent is an officer, was not privileged, under the fourth amendment to the Constitution of the United States, which provides that the right of the people to be secure in their papers, houses and effects against unreasonable searches and seizures should not be violated, from producing for inspection by counsel for the United States of America, and for introduction in evidence in the cause above mentioned,

the books and papers which this respondent was required and refused to produce.

1604 47. The court erred in holding that this respondent and said Northwest Paper Company were not privileged, under the Fifth Amendment to the Constitution of the United States, which provides that no person shall be compelled in any criminal case to be a witness against himself, from answering the questions and producing for inspection by counsel for the complainant and for introduction in evidence in the cause aforesaid the books and papers aforesaid, which this respondent refused to answer or to produce for the purposes aforesaid.

48. The court erred in holding that the provisions of an act of Congress, approved February 25, 1903, purporting to give immunity from prosecution to witnesses in certain cases for or on account of transactions, matters or things concerning which they may testify, required this respondent to answer the questions or produce the books and papers aforesaid for the purposes aforesaid.

49. The court erred in holding that said act gave said respondent or said Northwest Paper Company immunity from prosecution under the Laws of the State of Minnesota for or on account of any of the transactions, matters or things concerning which he was directed to testify and produce books and papers as aforesaid.

50. The court erred in holding that said act of Congress is not unconstitutional and void so far as it purports to give this respondent or said Northwest Paper Company immunity from prosecution under the laws of the State of Minnesota, for or on account of any of the transactions, matters or things concerning which he was directed to testify and to produce books and papers as aforesaid.

51. The court erred in holding that said act of Congress, approved February 25, 1903, gave said Northwest Paper Company immunity from prosecution under the act of Congress, approved July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' for or on account of any of the transactions matters or things concerning which he was directed to testify and produce books and papers, as aforesaid.

1605 52. The court erred in holding that the order of said court entered October 7, 1905, requiring him to answer said questions and to produce said books and papers was valid and effective.

53. And in not holding that said order of said court entered October 7, 1905, was void for want of power and jurisdiction in said court to enter and enforce the same.

1606 Wherefore, said Clarence I. McNair prays that the order and judgment of said circuit court of the United States for the district of Minnesota, in the third division thereof, so far as it relates to this respondent or to any of the matters above assigned for error for the errors aforesaid and for other errors in the record and proceedings in said matter, and in the order and judgment aforesaid, may be reversed and that said court may be directed to enter a judgment dismissing the petition in said matter so far as it relates

to said respondent or to any of the matters above assigned for error.

WINKLER, FLANDERS, SMITH,
BOTTUM & FAWSETT AND
DEFREES, BRACE & RITTER,
Solicitors for Clarence I. McNair.

(Endorsed :) Assignment of errors & prayer for reversal. C. I. McNair. Filed October 12th 1905 Henry D. Lang, clerk.

1607 In the Circuit Court of the United States for the District of Minnesota, Third Division.

THE UNITED STATES OF AMERICA, Complainant, }
vs. }
GENERAL PAPER COMPANY and Others, Defendants. }

In the matter of the proceedings to compel the witnesses Benjamin F. Nelson, A. C. Bossard, and Clarence I. McNair to answer questions and produce books and documents.

Know all men by these presents, that we, Clarence I. McNair, as principal and Rufus C. Jefferson and Frederick E. Weyerhauser as sureties, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Signed with our seals and dated this 12th day of October, A. D. 1905.

Whereas lately in said circuit court in the above entitled matter therein pending a judgment and sentence was rendered against the above named Clarence I. McNair, adjudging said McNair guilty of contempt of court and fining him \$100 for having wilfully disobeyed the order of this court made and entered herein on the 7th day of October, 1905, by refusing to answer the questions and to comply with the requests to produce evidence therein directed to be
1608 answered and complied with, and ordering that said Clarence I. McNair be imprisoned in the county jail of Ramsey county, Minnesota, until his said fine is paid and until he shall fully comply with said order made and entered on the 7th day of October, 1905, and the whole thereof.

Now therefore, the condition of this obligation is such that if the above named Clarence I. McNair shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error to effect and shall abide by and obey all orders made by said Supreme Court in said cause

and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, and pay all costs which may be awarded against him if the judgment and sentence against him shall be affirmed, then the above obligation to be void, otherwise to remain in full force virtue and effect.

CLARENCE I. McNAIR.

RUFUS C. JEFFERSON.

FREDERICK E. WEYERHAEUSER.

[SEAL.]

[SEAL.]

[SEAL.]

Signed, sealed and delivered in presence of—

HENRY D. LANG.

CHARLES E. MONROE.

The foregoing bond and the sureties thereon are hereby approved,
Oct. 12, 1905.

WILLIS VAN DEVANTER,
Circuit Judge.

1609 STATE OF MINNESOTA, } ss:
County of Ramsey, }

Be it known that on this 12th day of October, A. D., 1905, personally came before me the undersigned, a notary public in and for said county and State, the above named Clarence I. McNair, Rufus C. Jefferson and Frederick E. Weyerhaeuser to me personally known to be the persons described in and who executed the foregoing instrument, and each for himself acknowledged that he executed the same as his free act and deed.

[NOTARIAL SEAL.]

HENRY D. LANG,

Notary Public, Ramsey County, Minnesota.

1610 STATE OF MINNESOTA, } ss:
County of Ramsey, }

Rufus C. Jefferson and Frederick E. Weyerhaeuser being first duly sworn depose and say, and each for himself severally deposes and says, that he is a citizen and resident and freeholder of the State of Minnesota and that he is worth over and above all his just debts and liabilities and over and above all property exempt from execution the sum of two thousand dollars.

RUFUS C. JEFFERSON.

FREDERICK E. WEYERHAEUSER.

Sworn and subscribed to before me this 12th day of October, A. D., 1905.

[NOTARIAL SEAL.]

HENRY D. LANG,

Notary Public, Ramsey County, Minnesota.

(Endorsed:) Supersedeas bond. C. I. McNair. Filed October 12th, 1905. Henry D. Lang, clerk.

1611 UNITED STATES OF AMERICA, ss:

The President of the United States to the honorable the judges of the circuit court of the United States for the district of Minnesota, third division, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between The United States of America, complainants, and Clarence I. McNair, respondent, a manifest error hath happened to the great damage of said Clarence I. McNair, respondent, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 11th day of November next in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court this twelfth day of October in the year of our Lord one thousand nine hundred and five.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG,

Clerk Circuit Court of the United States for the
District of Minnesota, Third Division.

The foregoing writ is hereby allowed.

Oct. 12 1905.

WILLIS VAN DEVANTER,

Circuit Judge.

1612 UNITED STATES OF AMERICA, } ss:
District of Minnesota, Third Division, }

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States of America a duly certified transcript of the record and proceedings in the within entitled cause, with all things concerning the same.

In witness whereof, I hereto subscribe my name and affix the seal of the circuit court of the United States for the district of Minnesota, third division.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG,

Clerk of the Circuit Court of the United States of
America for District of Minnesota.

[Endorsed:] Entered 813 C. eq. Writ of error Matter of Clarence I. McNair. Filed October 12th 1905 Henry D. Lang, clerk.

1613 UNITED STATES OF AMERICA, ss :

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the 11th day of November, A. D. 1905, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, third division, wherein Clarence I. McNair is plaintiff in error and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Willis Van Devanter, one of the judges of the circuit court of the United States for said district of Minnesota, third division, this twelfth day of October in the year of our Lord one thousand nine hundred and five.

WILLIS VAN DEVANTER,
Circuit Judge.

Service of the above citation is hereby admitted this 12th day of October, 1905.

FRANK B. KELLOGG,
JAMES M. BECK,
ROBERT E. OLDS,
Solicitors for United States.

1614 [Endorsed:] Entered 813 C. eq. Citation Matter of Clarence I. McNair. Filed October 12th, 1905 Henry D. Lang, clerk.

1615 And afterwards on the 17th day of October the præcipe for return to the U. S. circuit court of appeals was filed of record in said cause, in words and figures following, to-wit:

1616 In the Circuit Court of the United States for the District of Minnesota, Third Division.

UNITED STATES OF AMERICA

vs.

BENJAMIN F. NELSON, ANSELM C. BOSSARD, and CLARENCE I. McNair. }

To the clerk of the above entitled court:

You will please prepare a transcript of the record in this cause, to be filed in the office of the clerk of the United States Supreme Court under the writs of error heretofore allowed by said court, and

include in said transcript the following pleadings, proceedings and papers on file, to-wit :

1. The petition of the United States of America filed against the said Nelson, Bossard and McNair on the 12th day of October, 1905.

2. The answer of said Benjamin F. Nelson, to said petition, filed Oct. 12, 1905.

3. The answer of said Anselm C. Bossard to said petition, filed Oct. 12, 1905.

4. The answer of said Clarence I. McNair to said petition, filed Oct. 12, 1905.

5. The order of said circuit court finding said Nelson, Bossard and McNair guilty of contempt of court and finding and committing them for such contempt, entered Oct. 12, 1905.

6. The joint and several bill of exceptions of said Nelson, Bossard and McNair, filed Oct. 13, 1905.

7. Petition of said Benjamin F. Nelson for a writ of error, filed Oct. 12, 1905.

8. Petition of said Anselm C. Bossard for a writ of error, filed Oct. 12, 1905.

9. Petition of said Clarence I. McNair for a writ of error, filed Oct. 12, 1905.

1617 10. Assignments of error of said Benjamin F. Nelson, filed Oct. 12, 1905.

11. Assignments of error of said Anselm C. Bossard, filed Oct. 12, 1905.

12. Assignments of error of said Clarence I. McNair, filed Oct. 12, 1905.

13. The order of court allowing a writ of error on behalf of said Benjamin F. Nelson, entered Oct. 12, 1905.

14. The order of court allowing a writ of error on behalf of said Anselm C. Bossard, entered Oct. 12, 1905.

15. The order of court allowing a writ of error on behalf of said Clarence I. McNair, filed Oct. 12, 1905.

16. The supersedeas bond filed by said Benjamin F. Nelson, Oct. 12, 1905.

17. The supersedeas bond filed by said Anselm C. Bossard, Oct. 12, 1905.

18. The supersedeas bond filed by said Clarence I. McNair, Oct. 12, 1905.

19. The writ of error issued on behalf of said Nelson, Oct. 12, 1905.

20. The writ of error issued on behalf of said Bossard, Oct. 12, 1905.

21. The writ of error issued on behalf of said McNair, Oct. 12, 1905.

22. A citation issued on behalf of said Nelson on Oct. 12, 1905, and the acceptance of service thereon by counsel for the United States of America.

23. A citation issued on behalf of said Bossard Oct. 12, 1905, and

the acceptance of service thereon by counsel for the United States of America.

24. A citation issued on behalf of said McNair Oct. 12, 1905, and the acceptance of service thereon by counsel for the United States, of America.

Said transcript to be prepared as required by law and the rules of this court and the rules of the United States Supreme Court.

WINKLER, FLANDERS, SMITH,
BOTTUM, & FAWSETT,
DEFREES, BRACE & RITTER,

Attorneys for said Plaintiffs in Error and Each of Them.

(Endorsed:) Præcipe for return. Filed Oct. 17th, 1905. Henry D. Lang, clerk. By Louise B. Trott, deputy.

1618 UNITED STATES OF AMERICA :

Circuit Court of the United States, District of Minnesota, Third Division.

I, Henry D. Lang, clerk of said circuit court, do hereby certify and return to the honorable the Supreme Court of the United States, that the foregoing, consisting of 1625 pages, numbered consecutively from I to VII and 1 to 1618 inclusive, is a true and complete transcript of the records, process, pleadings, orders, final judgment and all other proceedings in said cause, as enumerated in detail in the index prefixed thereto and numbered from pages I to VII both inclusive, and of the whole of so much thereof, as is specified in detail in said index, as appears from the original records and files of said court; and I do further certify and return, that I have annexed to said transcript, and included within said paging, the original citation, together with the proof of service thereof.

In witness whereof, I have hereunto set my hand, and affixed the seal of said court, at St. Paul, in the district of Minnesota, this 8th day of November A. D. 1905.

[Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.]

HENRY D. LANG, Clerk.

1619 Supreme Court of the United States, October Term, 1905.

BENJAMIN F. NELSON, Plaintiff in Error, }
v.
THE UNITED STATES. }

ANSELM C. BOSSARD, Plaintiff in Error, }
v.
THE UNITED STATES. }

CLARENCE I. MCNAIR, Plaintiff in Error, }
v.
THE UNITED STATES. }

Stipulation.

It is hereby stipulated by and between counsel for the parties to the above-entitled causes that in the printing of the transcript of the record herein pages 179 to 614, inclusive and pages 835 to 1460, inclusive (being portions of the transcripts of the records in the cases of Lewis M. Alexander v. The United States, George A. Whiting v. The United States, William Z. Stuart v. The United States, General Paper Company v. The United States and E. T. Harmon and General Paper Company v. The United States, Nos. 381, 382, 383, 384 and 385, respectively, already in print), shall be omitted.

JAMES G. FLANDERS,
WILLIAM BRACE,
Per J. G. FLANDERS,
Counsel for Plaintiffs in Error.
H. M. HOYT,
Solicitor General.

November 11, 1905.

1620 [Endorsed:] File Nos. 19,992, 19,993 & 19,994. Supreme Court U. S. October term, 1905. Term Nos. 490, 491 & 492. Benjamin F. Nelson, pl'ff in error, vs. The United States. Anselm C. Bossard, pl'ff in error, vs. The United States. Clarence I. McNair, pl'ff in error, vs. The United States. Stipulation to omit parts of record in printing. Filed Nov. 18th, 1905.

Endorsed on cover: File No. 19,992. Minnesota C. C. U. S. Term No. 490. Benjamin F. Nelson, plaintiff in error. vs. The United States. File No. 19,993. Term No. 491. Anselm C. Bossard, plaintiff in error, vs. The United States. File No. 19,994. Term No. 492. Clarence I. McNair, plaintiff in error, vs. The United States. Filed November 17th, 1905. File No. 19,992, &c.

